462. Humphrys-Alexander.
1243

IV. j. 10

THE STIRLING PEERAGE.

TRIAL

OF

ALEXANDER HUMPHRYS OR ALEXANDER,

STYLING HIMSELF EARL OF STIRLING,

BEFORE THE

HIGH COURT OF JUSTICIARY,

FOR FORGERY,

ON 29TH APRIL, 1839, AND FOUR FOLLOWING DAYS.

STENOGRAPHED BY

MR SIMON MACGREGOR,

AND EDITED BY

WILLIAM TURNBULL, ESQ. ADVOCATE, F.S.A. SCOT.

WITH

AN INTRODUCTORY NOTICE OF THE EARLDOM OF STIRLING,
AND PROCEEDINGS OF MR HUMPHRYS RELATIVE
TO HIS PRETENDED CLAIM.

WILLIAM BLACKWOOD AND SONS, EDINBURGH;
AND T. CADELL, LONDON.
MDCCCXXXIX.

EDINBURGH:
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ADVERTISEMENT.

In order to account for the discrepant orthography of the pseudo-claimant's name, as it appears in the succeeding pages, I may mention, that in every part of the volume, except the Crown productions, I have spelt it Humph*rys*, and not Humph*reys*, at the express request of Mr Lockhart, agent for Mr Humphrys. Although the difference is immaterial, yet, for the sake of typographical accuracy, as well as from courtesy to Mr Lockhart, I think it right to notice it thus specially.

INTRODUCTION.

ERRATUM.

Page 246, line 9 from the bottom—For "*excerpt with*" read "*charter without.*"

whole the territory adjacent to the Gulf of St Lawrence, described in said charter, thenceforward to be called Nova Scotia; and constitutes him, his heirs and assignees, hereditary Lords Lieutenant, with powers almost approaching to those of absolute sovereignty. Before this charter was ratified by the Scots Parliament, his Majesty died; when, in 1625, the grant was renewed by his successor in form of a Charter of Novodamus, proceeding upon the above narrative, and conceding, over and above, additional powers to Sir William Alexander.

* He was author of "An Encouragement to Colonies, by Sir Wm. Alexander, Knight.—Alter erit tum Tiphis, et altera quæ vehat Argo—dilectos Heroas. London, Printed by William Stansby, 1625." Small 4to.

INTRODUCTION.

The colonization of that extensive territory, situated about the Gulf of St Lawrence, in North America, was a favourite project both of Kings James VI. and Charles I. Into this scheme Sir William Alexander of Menstrie, afterwards Secretary of State for Scotland, entered actively,* and was for his exertions rewarded by James by charter, dated 12th September, 1621, whereby he grants to the said Sir William, All and Whole the territory adjacent to the Gulf of St Lawrence, described in said charter, thenceforward to be called Nova Scotia; and constitutes him, his heirs and assignees, hereditary Lords Lieutenant, with powers almost approaching to those of absolute sovereignty. Before this charter was ratified by the Scots Parliament, his Majesty died; when, in 1625, the grant was renewed by his successor in form of a Charter of Novodamus, proceeding upon the above narrative, and conceding, over and above, additional powers to Sir William Alexander.

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These charters are in the usual form of feudal conveyances as employed by the law of Scotland, but erecting Nova Scotia into a Barony, and declaring sasine at the castle of Edinburgh to be equivalent to sasine on the lands themselves. In them Sir William Alexander was infeft by sasine, dated 29th September, and recorded in the General Register of Sasines 1st October, 1625. They were all afterwards confirmed by Act of the Scots Parliament 1633, c. 28. The original documents are lost, but copies are preserved in the Register of the Great Seal.

Sir William sent to Canada one of his sons, who built forts at the mouth of the St Lawrence, and exercised other acts of authority. But the work of colonization proceeded slowly, and King James, with a view to facilitate it, fell upon the expedient of creating the order of Nova Scotia Baronets, which title was to be conferred on such individuals of good families who should engage therein. This arrangement was carried farther into effect by Charles I. who made such creations a source of revenue. The form adopted was:— On receipt of a certain sum of money, to bestow a grant of sixteen thousand acres of land in Canada; this was erected into a barony, and the honours of a baronet of Nova Scotia appended thereto. The order was subsequently extended to natives of England and Ireland, provided they became naturalized Scotsmen.

Owing to his transatlantic speculations and other causes, Sir William Alexander became impoverished, and his property in Scotland became deeply involved. The French had a small colony in Canada, and he sold his entire possessions in that country to a Mons. De la Tour. The original Scots colony depended on the

crown of Scotland; it was ceded to France by treaty of St Germains, 29th March, 1632,* was reconquered by Cromwell; again surrendered by Charles II.; and in 1713 became and continues a British colony, without reference to any previous grants to Sir William Alexander. Even if Sir William had not alienated whatever right he may have had in Nova Scotia, before the above treaty of 1632, it was completely extinguished by that and subsequent confederations.

Sir William was created Earl of Stirling by Charles I. by patent dated 14th June, 1633. It carries the title to himself and his heirs male bearing the surname and arms of Alexander. The original is not extant, but is recorded in the Register of the Great Seal. Subsequently, on 23d January, 1636, the Earl expede a charter under the Great Seal, of his lands of Gartmore, Tullibody, Tillicoultry, &c. with the destinations

* "De la part de sa Majesté de la Grande Bretagne le dit Sieur Ambassadeur, en vertu du pouvoir qu'il a, lequel sera inser en fin des présentes, a promis et promet pour, et au nom de sa dite Majesté, de rendre et restituer à sa Majesté très Chrêtienne tous les lieux occupés en la Nouvelle France la Cadie et Canada par les sujets de sa Majesté de la Grand Bretagne, iceux faire retirer des dits lieux, et pour cet effet, le dit Sieur Ambassadeur delivrera lors de la passation et signature des présentes aux Commissaires du Roi très Chrêtien, en bonne forme, le pouvoir qu'il a de sa Majesté de la Grande Bretagne pour la restitution des dits lieux, ensemble les commandemens de sa dite Majesté à tous ceux qui commandent dans la Port Royal, Fort de Quebec, et Cape Breton, pour etre les dites places et Forts rendus et remis es mains de ceux qu'il plaira à sa Majesté très-Chrêtienne ordonner huit jours apres que les dits commandemens auront été notifiés à ceux qui commandent ou commanderont es dits lieux, le dit temps de huit jours leur étant donné pour retirer cependant hors des dits lieux places et Forts leurs armes, bagages, marchandises, or, argent, ustensiles, et generalement tout ce qui leur appartient: auxquels, et à tous ceux qui sont es dits lieux, est donné le terme des trois semaines après les dits huit jours expirés, pour durant icelles ou plutot si faire se peut, rentrer en leur navires avec leurs armes et munitions, bagages, or, argent, ustensiles, marchandises, pelleteries, et generalement tout ce qui leur appartient, pour de la se retirer en Angleterre, sans sejourner davantages es dits pays."

The full instrument is printed in Rymer's Fœdera.

contained in the patent of 1633. He is said to have died in 1640, and the title-deeds of the present proprietors of these lands prove that they were adjudged from his family for debts after that period.

The Earldom of Stirling, limited to heirs male, became dormant in 1739,* and it is supposed that no male descendants of Sir William Alexander now exist.

On 14th December, 1761, a person born in America, and designing himself William Alexander, Earl of Stirling, petitioned for restoration of the title as heir-male of the first earl under the patent of 1633.† The petition was referred to the House of Peers, and rejected 10th March, 1762. This claimant confined his claim to the honours of the patent of 1633, limited to heirs-male.‡

* We find in the Caledonian Mercury of October 2, 1733, this notice of the last Earl of Stirling: — "On Sunday, the Right Honourable the Earl of Stirling of N. Britain waited on their Majesties at Court. It is remarkable his Lordship was not at Court since the second year of K. William III. choosing to live private, and is 80 years old. He was introduced by Sir Robert Walpole, and graciously received."

† Journals of House of Lords, *sub annis*.

‡ It would appear, however, that, although this individual made no formal claim to the general estates, he assumed a right to the lands in Canada, possibly from the state of affairs in America at that time. It may be, that his share in the rebellion arose from the decision of the House of Lords against him. See in Mr Maidment's "Analecta Scotica," I. p. 169, the following curious note:—

"The earldom was assumed by William Alexander, an American, as descendant of Andrew, the patentee's uncle. Although his claim to the peerage was rejected by the House of Lords, he, nevertheless, continued to be styled Earl of Stirling. When the disputes arose between Great Britain and America, he sided with the latter, and rose to the rank of a general in the rebel service, as it was then called. He was taken prisoner in Long Island, and shortly after his capture, the following remarks on his claim to the earldom appeared in one of the newspapers of the time:—

"'TO THE PRINTER, &c.

"'Many of your readers are, with great justice, surprised that General Howe, as well as some of the American governors, should be so ill acquainted with the peerage of their country, as to give the title of lord

Not so, however, the next individual in the field —Mr Humphrys. He modestly lays claim, not only to the Earldom of Stirling, but also to the whole territory in Canada, besides the Scotish estates pertaining

to the rebel general Alexander, by the title of Lord Stirling. You may, from good authority, inform the public, that he is not in the least related to the late Earl of that name. Some years ago, this person attempted to impose himself on government as the nighest akin to that nobleman, and wanted to assume the title; but being unable to produce any credentials, his petition was thrown out. That title has been extinct ever since the death of Sir William Alexander,* created Earl of Stirling, who died in the year 1641, a man of great learning and abilities, and famous for his poetry. His corpse was deposited in a leaden coffin, in the family aisle, in the church of Stirling, above ground, and remained entire till within these thirty years. Being much involved in debt at his death, and his descendants very poor, they never thought of making good their title to that dignity, till a very considerable time thereafter; but the mansion-house, or church, which stood upon the banks of the river Devon, near Stirling, in which the records of the family descent were deposited, being swept away by a rapid current of the river after an uncommon fall of rain, rendered it impossible for the nearest akin to the family to make good his claim to the title. Several branches of this family still live at a village called Mainstry, on the above river, about three miles from Stirling in Scotland, the oldest of which is the fourth in descent from the earl, and is a reputable farmer, and known by all the old people about that part of the country to be the real and nearest descendant of the Earl of Stirling.'†

"The American earl (whose right to the title, notwithstanding the judgment of the House of Peers, seems to have been well founded) claimed, as representing the first lord, a large tract of land, which he advertised for sale. Upon this coming to the knowledge of Francis Bernard, Esq. Governor of the province of Massachusetts, he issued the following proclamation:—

"'Whereas the Earl of Stirling hath published advertisements for the sale of a large tract of land, situated on the east side of Penobscot river, and for leasing another large tract in the eastern parts of this province, extending from St Croix to Pemaquid, to which he has laid claim by virtue of a grant made in the year 1635 to William Alexander, first Earl of Stirling, by the council established at Plymouth.

"'And whereas by a state of the title of this province, to the country between the rivers Kenebec and St Croix, prepared by a committee of the General Court, and printed in 1763, by order of the said Court, it appears that the persons claiming under the said Earl of Stirling, have no right or title whatever to the said country, or any part thereof; and it is asserted in behalf of the province of Massachusetts Bay, hath a clear and undoubted right and equitable title to the soil and jurisdiction of the said country, and every part thereof, under such restrictions and limitations as are expressed in the province charter.

* Mistake.

† He might have been the nearest heir-male, but he could not have been a descendant in the male line of the first earl.

thereto; and in order to substantiate this claim, he thus, in his defences to the action of reduction-improbation at the instance of the Officers of State, endeavours to make out his descent:

"The defender is the lineal descendant of Sir William Alexander of Menstrie, afterwards created Earl of Stirling, and is his nearest and lawful heir. The said first Earl of Stirling was great-great-great-grandfather of the defender. The defender connects himself with the said Earl of Stirling, through the Honourable John Alexander, sometime styled John Alexander of Gartmore, fourth son of the said Earl, as follows:—The said John Alexander of Gartmore had an only son, John, who married Mary Hamilton at Donaghadee, in Ireland, and died in 1712, leaving an only son, the Rev. John Alexander, and two daughters. The Rev. John Alexander married Hannah Higgs at Hartlebury, in Worcestershire, and died in 1743, leaving two sons, John and Benjamin, and two daughters, Mary and Hannah. Of these, John died in 1765. Benjamin, who was the last heir-male of the body

"'And whereas the General Court of this province has granted twelve townships within the tract claimed as aforesaid, which grants now lie before his Majesty for his royal approbation, in consequence of which grants, a great number of families have actually settled in the said townships, in order to fulfill the conditions of the said grant, if the same should be approved.

"'For the preserving the peace of the said country, and for preventing any intrusion upon the said country, until his Majesty shall be pleased to determine upon the same, and for providing against the tumults and affrays which will unavoidably happen, if any of the granters or lessees of the said Earl of Stirling should offer to enter upon and take possession of the lands as granted, and actually settled, as aforesaid;

"'I have thought fit to issue, and do, by and with the advice and consent of his Majesty's council, issue this proclamation, hereby declaring the intention of the government to protect and defend the said lands, and the inhabitants thereof, against the said Earl of Stirling, and all persons claiming under him, until his Majesty's pleasure shall be known therein; and cautioning all his Majesty's subjects against purchasing, or taking leases, of any of the said lands under any person or persons claiming under the first Earl of Stirling, as aforesaid.

"'Given at the Council-Chamber in Boston,
the 7th day of September, 1768.

"'FRA. BERNARD.'"

of the said first Earl of Stirling, died in 1768, and Mary, the eldest daughter, died in 1794, all of them unmarried, and without issue. Hannah, the youngest daughter, was married to William Humphrys, Esq. at Birmingham, and of this marriage there was one son, the defender, and two daughters. There is no other nearer lawful heir descended of the first Earl of Stirling than the defender."

The real pedigree of Mr Humphrys may go back to a Rev. John Alexander, but farther is unknown, and it cannot be shewn to be in any way linked with the *real* Alexanders.

The procedure adopted by Mr Humphrys may now be briefly stated.

Having, in 1824, obtained the royal licence to assume the surname of Alexander,* he procured him-

* "GEORGE R.—George the Fourth, by the Grace of God, &c.—Whereas Alexander Humphrys of Netherton House, in the county of Worcester, gentleman, hath, by his petition, humbly represented unto us, That he is the only son and heir of William Humphrys of the Larches, in the county of Warwick, Esq. some time since deceased, by Hannah his wife, daughter of the late Reverend John Alexander, who died in the year 1743, and only surviving sister, and sole-heir of her two brothers, John Alexander, who died also unmarried in the year 1765, and Benjamin Alexander, who died also unmarried in the year 1768.

That he is anxious to perpetuate the family surname of his aforesaid maternal grandfather, John Alexander, as well as out of grateful respect to his memory, as out of consideration for the wishes oftentimes expressed by his deceased mother, that the said surname might be revived in the person of the petitioner.

The petitioner therefore most humbly prays our royal licence and authority, that he and his issue may assume aud take the surname of Alexander in addition to and after that of Humphrys. Know ye that we, of our princely grace and special form, have given and granted, and, by these presents, do give and grant, unto him, the said Alexander Humphrys, our royal licence and authority, that he and his issue may assume and take the surname of Alexander in addition to and after that of Humphrys, provided this our concession and declaration be recorded in our College of Arms, otherwise this our licence and permission to be void and of none effect.

Our will and pleasure therefore is, &c.

Given at our Court at Carlton House the 8th day of March, 1824, in the fifth year of our reign.

By his Majesty's Command,

ROBERT PEEL."

self to be served "lawful and nearest heir-male in general of the body of the said Hannah Alexander," before the Bailies of Canongate, 7th February, 1826. Immediately after this service was retoured, he assumed the title of Earl of Stirling and Dovan, designated his mother "Countess," and conferred the usual styles of dignity upon his family and immediate relatives.

Next, in order to connect himself with the landed properties, he found it necessary to be served nearest and lawful heir to the Earl of Stirling; and accordingly, with the assistance of one Mr Thomas Christopher Banks,* he was, on brieve from Chancery of 21st September, 1830, served "lawful and nearest heir in general to the said deceased William, the first Earl of Stirling, my great-great-great grandfather," 11th October, 1830.

He then took a brieve of 10th June, 1831, as heir above to the North American possessions. After this he managed a special service before the Sheriff of Edinburgh, wherein he produced the General Service, before the Magistrates of Canongate, as establishing his propinquity, and the Register of Great Seal, and Register of Sasines, in lieu of the principal charter and instrument of sasine. Both services were in absence. On being retoured, he obtained precept from Chancery, and by it, on 8th July, 1831, was infeft in the North American property at Edinburgh Castle. †

* This is one of those busy, meddling, troublesome, and officious individuals, professing themselves "Genealogists," who tend so much to perpetuate blunders and misrepresentations in matters of general and family history, if, indeed, they do not *wittingly* aid and abet in the fabrication of impostures like the present. To give Banks his due, however, he is the author of a very good work on the Extinct and Dormant Baronage of England.

† "He hath much land, and fertile:—'Tis a chough; but, as I say, spacious in the possession of dirt." *Hamlet*, Act V. Sc. 2.

As the patent of 1633 is to heirs-male alone, Mr Humphrys * could not, on *his own shewing*, succeed; but he adopts a bold device, and pretends, that in 1639, Charles I. granted a charter of Novodamus to the Earl of Stirling by way of a deed of entail of the whole estates in Scotland and America, as well as the honours in the patent of 1633, *not* limited, as in that patent, to heirs-male, but as follows:

"De Novo Damus et Concedimus in perpetuum, antedicto perconfiso et predilecto nostro consanguineo et consiliario Willielmo Comite de Stirling, et heredibus masculis de corpore suo; quibus deficientibus heredibus femellis natu maximis sine divisione ultimi talium heredum masculorum, et heredibus masculis de corporibus dict. heredum femellarum respective procreandis, cognomen et arma de Alexander gerentibus; quibus omnibus deficientibus, propinquioribus legitimis heredibus quibuscunque dicti Willielmi Comitis de Stirling, cum precedentia a decimo quarto die mensis Junii anno Domini millesimo sexcentesimo trigesimo tertio, titulos, honores, et dignitates Comitis de Stirling, Vicecomitis de Stirling et de Canada, Domini Alexander de Tullibodie, cum omnibus et singulis privilegiis, pre-eminentiis, prerogativis, libertatibus et immunitatibus quibuscunque ad eosdem pertinen. et spectan."

This document has never been, and never can be, produced. It is a complete fabrication.

On 12th October 1829, Mr Humphrys, or Alexander,

* Notwithstanding the royal licence to bear the surname and arms of Alexander, I persist, throughout this statement, to designate him by his own proper family-name of *Humphrys*,—1*st*, Because I conceive the aforesaid licence to have been obtained upon a specious pretence; and 2*d*, because I am averse to confound the name of an old and illustrious family with that of a gentleman who has been lucky enough to obtain the use of it.

brought an action in the Court of Session, for proving the tenor of this alleged Novodamus of 1639, to which the Officers of State were not called as parties, and which was dismissed *hoc statu*, 4th March, 1830. (Shaw's Reports, VIII. 634.)

On 4th September 1830, he instituted a new action against the Officers of State and Mr Graham of Gartmore, which was likewise dismissed, 2d March, 1833.

On 14th July 1831, Mr Humphrys, on the narrative of his service, granted to Thomas Christopher Banks, * aforesaid, 16,000 acres of land in Canada, and created him a baronet, in terms of a clause in the charter of 1621 and 1625. Banks assumed the title, and applied to the Lords of the Treasury for confirmation of the grant, but, receiving no reply to his application, † he brought a Declarator before the Court of Session, to have the Resignation found valid, and calling upon the Crown to grant a charter under the Great Seal conform thereto. This was defended by the Officers of State, but action

* It is truly amazing, after the "eternal friendship" sworn between these parties,—after this donation of soil and presentment of orange ribbon,—to find the newly created Baronet of Nova Scotia, designated by his creator *quoad honores*, "a malevolent and mercenary agent," "a vindictive and treacherous being," and so forth. (*Vide* "Narrative of Oppressive Law Proceedings," &c. *passim*.)

† Notwithstanding the non-confirmation by the Lords of the Treasury of this ridiculous grant, and, as it were, in defiance of their proper contempt for his impertinent application, Mr Banks prefixed to his "Analytical Statement of the Case of Alexander Earl of Stirling and Dovan," &c. London, 1832, 8vo. an "Advertisement," explanatory and defensive of his assumption of the title of "Baronet, N. S." on the title-page of the said "Statement." In this "Advertisement," he coolly remarks on the creation by Mr Humphrys,—"I consider the same to be perfectly as legal and as efficacious, as if it had been conferred upon me by the Crown itself."!!!!

"Upon my life I am a Lord indeed,
And not a tinker, nor *Christiphero Sly!*"
Taming of the Shrew.

was sisted in consequence of proceedings to be subsequently noticed. *

In June 1831, he instructed his agent, Mr Ephraim Lockhart, to issue this proclamation to the Baronets of Nova Scotia :

"NOTICE TO THE BARONETS OF NOVA SCOTIA.

"Whereas upon the institution of the order of Knights Baronets of Nova Scotia, King Charles I. by his Royal Charter, under the Great Seal of Scotland, dated 12th May 1625, was pleased to grant licence and authority to Sir William Alexander, (afterwards Earl of Stirling,) his Majesty's Hereditary Locum Tenens, and Proprietary Lord of the said Colony of Nova Scotia, to nominate and create certain persons, at his discretion, into the honor and dignity of Knights Baronet of the said country, with a descendable inheritance therein ; and also to apportionate to every Baronet so created a particular district of land to be erected into a free barony. And whereas in virtue of such charter, many persons were created baronets, and had seisin of the lands assigned to them, to enjoy with the right and privilege of working the mines on their respective territories, &c. (as appears from the Register of Seisins.) It is hereby made known to the heirs representatives of the said persons, that very important interests are at this moment vested in them, of which, from the lapse of time, and the mistaken idea of the

* In reference to this action, Banks, in February 1824, published a most insolent and Bobadillian, as well as stupid pamphlet, entitled "A Letter to the King's Most Excellent Majesty, respecting what are called "The Defences of the Officers of State," to a certain action of declarator now sisted before the Court of Session, at Edinburgh, shewing the uncandid, covert, and invidious assertions therein unnecessarily introduced; which having been printed, tend, as doubtless meant, to the prejudice of the pursuer, in the merits of his action, and of his public character, before trial of the cause,—

Which rogue ought most to be condemned to shame,
Who *steals* my purse, or he who *saps my name?*

Edinburgh, William Tait, 1834." This he very prudently took care to recall soon after publication.

nature of their existing rights, it is apprehended they have hitherto not been aware. For the better explanation of these circumstances, it is intended to call a meeting very shortly of the parties concerned, that a statement may be laid before them of their actual claims, that their rights may be protected, and steps forthwith taken to secure them from any farther prejudice from the operations of the company, called the Mining Company of Nova Scotia. The Baronets of Nova Scotia who may be desirous to attend the meeting, are therefore requested to send their names and addresses to Ephraim Lockhart, Esq. W.S. 1 Howe Street, Edinburgh, or to Messrs Fisher and Rhodes, solicitors, Davies Street, Grosvenor Square, London, from whom farther information may be obtained."

Almost immediately after being infeft at the castle, on 12th July, 1831, Mr Humphrys issued the following Prospectus, setting forth his rights, and offering for sale grants of land, in such quantities, and at such rates as the *ambition* of parties might require.

"Nova Scotia, New Brunswick, and Canada, Hereditary Lieutenancy Office of the Lord Proprietor, for Sale, Grants and Locations of Lands, &c. &c. 53, Parliament Street.

"PROSPECTUS.

"The Earl of Stirling, Hereditary Lieutenant, and Lord Proprietor of the Province of Nova Scotia, and the Lordship of Canada, was, on the 2d day of July last, duly served nearest and lawful heir in special to his great-great-great-grandfather, Sir William Alexander, the first Earl of Stirling, under the royal charters, granted by their majesties, King James and Charles I. which were afterwards confirmed in Parliament, in 1633. (*Vide* Appendix to Prospectus.) This verdict of heirship was duly retoured to the Chancery in Scotland; and

in virtue thereof by a precept from his majesty, directed forth of his Chancery to the Sheriff of the County of Edinburgh, his Lordship was infeft in the whole country, with all its parts and pertinents, the Offices of his Majesty's hereditary Lieutenant of Nova Scotia, &c. (New Brunswick and the adjacent Islands included,) by sasine taken at the Castle of Edinburgh, on the 8th day of the said month of July, in terms of the powers, extent of territory, &c. contained in the charters to his said ancestor.

" Being thus legally seised of the ancient inheritance of his family, he is now desirous that the waste lands within his said territories should be settled and appropriated in certain locations or portions to persons inclined to treat for the same, either for absolute purchase or lease for a term of years.

" With regard to the value of the lands, they may be estimated at prices varying from 2s. to 2s. 6d. 3s. 6d. 5s. 7s. 6d. 10s. and in some cases as high as 20s. per acre; being regulated by the quality of the soil, and by the local advantages they possess.

" In this estimate it may be observed, that a district of sixteen thousand acres of the most inferior land has been calculated to be worth £2000 sterling; but in noticing this particular quantity of land, it is because such proportion was, upon the first institution of the Order of Knights Baronets of Nova Scotia, assigned as a qualification for those parties on whom that distinguished order might be conferred, being intended for the promotion of the colonization of the country, and which was to proceed upon the previous resignation of Sir William Alexander, or his heirs, of so much land into the hands of the Baronet intended to be created.

" Thus, while the value of sixteen thousand acres of inferior land may be reckoned at £2000, there is a material advance to be applied to that of a superior nature; and a still farther value to be computed, provided the quantum is to be viewed with reference to the honour to which it gives qualification, and which the ambition of the party might like to obtain.

" On this point, as on all the sub-grants of land made by Sir

William Alexander and his heirs, the Crown is covenanted by the charters to confirm them to the grantees, free of all expense.

" An inspection of the charters (which, for the better information of the public, have been translated from the original Latin into English) will shew at once the extent of territory, and the powers given to allot and divide that territory; or what remains unallotted and unsettled, into grants to be attended with greater privileges than can be obtained from the Canada, or any other company, having, or assuming to have charters from the British Government; but which are not recognized by the Earl of Stirling, whose previous grant or final confirmation of right ought to have been obtained. His Lordship, by virtue of his charter, being the *principal* to grant, and the Government merely the *accessory* (if required) upon these occasions to confirm the same.

" With respect to the climate of the country, its soil, its productions, its agricultural capabilities, and its general features to attract attention, and encourage settlers, the whole may be comprised in the following observations:—

" The heat in summer, and the cold in winter, are each greater than in European countries in the same latitude. The soil is extremely rich and fertile in general; and wheat, barley, rye, maize, oats, and almost every species of grain, are cultivated with the greatest success, the climate being well calculated to bring them to maturity; also apples, pears, peaches, nectarines, grapes, are produced, particularly in Upper Canada, in the richest profusion. In fact, few sections of the globe are so especially endowed by nature with exuberance and fertility, a salubrious atmosphere, and a climate calculated to ripen luxuriant fields, and mature delicious fruits. There are roads adjoining, and through all the settled districts; in addition to which the numerous rivers form an important means of passage and conveyance, both in summer and winter; they also afford great conveniences for the erection of mills, and other purposes of rural economy.

" At this time there is a particularly fine district of 1,000,000

acres of most excellent land in New Brunswick, comprehending every attribute of climate and soil to render settlements therein desirable; and this district may be treated for, either in entirety or in subdivisions, according to the inclinations or capabilities of persons to take the whole or only proportions.

"The Hereditary Lieutenant would have no objection to encourage and give every countenance to individuals who might be disposed to form a Company; and would himself take one-tenth of the shares of which such company might think it desirable that it should consist.

"The lands taken by such company might then have conceded, to be possessed, along with them, the exclusive privilege of working the mines which may be thereon found; and other great advantages, of which a more correct idea may be formed by reading the charters.*

"*N.B.*—All proposals to the office are requested to be made in writing, and either left there, or, if sent by post, then post paid."

This was succeeded by another of 28th October, same year, in form of an Address to the Public Authorities and others in Canada. This document, like its predecessor, is not the least amusing of Mr Humphrys' manifestoes.

"ADDRESS to the Public Authorities, the Land Settlers, Inhabitants, and all others whom it may concern, in the Anglo-Scottish Colony of Nova Scotia, including New Brunswick, and in the Lordship and Territory of Canada, &c. &c.

"In my Address, dated Edinburgh, 12th July, 1831, I made known to you the verdict of the jury, by which I was found to be the nearest and lawful heir in special to my great-great-

* "Sold by Ridgway, Piccadilly; M'Clary, St James Street; and Bigg, Parliament Street."

great grandfather, Sir William Alexander, the first Earl of Stirling, &c. the first grantee and founder of the colony of Nova Scotia, and grantee of the lordship of Canada, &c.: in virtue of which verdict, by a precept from his Majesty, directed forth of his chancery in Scotland, to the sheriff of the county of Edinburgh, I had been infeft in the whole country, with all their parts, pertinents, and high hereditary offices, &c. by seisin taken at the castle of Edinburgh in terms of the original grants made to my said ancestor, Sir William Alexander; and I also mentioned, that I should, as speedily as possible, cause to be submitted to you copies of the various charters conferring my rights, with the great privileges, immunities, advantages, and prerogatives contained therein.

" Having had these charters now printed and translated, I have directed them to be sent over and circulated, for your perfect information of the subjects they embrace, in which I do not doubt but you will perceive that there are many points of commercial interest, of local administration, and powers of legislative enactment, which peculiarly deserve your attention; and in relation to your most valuable rights, are of an important nature, to be deeply considered.

" The exercise, by the appointment of the British Government, of the high hereditary offices conferred upon my ancestor, Sir William Alexander, is now legally vested in me, as his nearest and lawful heir in special, with power to perform them either in person, or by a sufficient deputy, nominated by me to act in my room; and I have accordingly presented to the several Secretaries of State, and Prime Minister of his Majesty's Government, my claim of right to the execution of the said high hereditary offices; and likewise made my protest against their allotment to any person or persons whomsoever, of any part or parcel of the unlocated, or at present waste land, within your province or territory; a copy of which claim and protest is hereunto annexed.

" Nova Scotians and Canadians,—I have deemed it expedient thus to explain generally my connection with your country, and the intention I have to adopt all legal measures which

may be necessary to assert and uphold my rights; but as I before observed, that in coming forward for this purpose, I mean only to be guided by a due consistency of conduct in promoting, when in my power, your advantage, and by not disturbing any legal interests, derived from or under any act or acts of my ancestors and predecessors.

" Persons desirous of settling on any of the waste lands, either by purchase or lease, will find me ready to treat with them on the most liberal terms and conditions.

" They may make their proposals in writing, either to my agents in or to my principal agent at the *Nova Scotia Lieutenancy Office, No.* 53 *Parliament Street, London*, describing the extent, situation, and locality of the land they wish to have, and upon what other waste lands they may border or be near to,—with such description at large as may be proper for my agents to ascertain their capabilities of produce and value.

" Persons inclinable to form companies, for any particular districts, with a view to the working of any mines thereon, would find every encouragement from me to promote their design, and to be aided, if wanted, by the junction of capitalists in this kingdom; but I should rather wish, that whatever could be undertaken by native inhabitants of Nova Scotia or Canada, should have every preference over persons emigrating from Great Britain; and I should most particularly wish, that in any official appointments I may have to make, the persons to fill them should rather be Nova Scotians or Canadians, than the strangers of England.

" I should be glad to be furnished with every well-authenticated account of the situation of all the waste lands at present in Nova Scotia, New Brunswick, Canada, and the islands appertaining thereto, and of those lands which, within the last twenty years, have been granted out by the Crown to English subjects; and in what state the latter are, and how and in what manner the former might be the best improved.

" All communications and information will be received with great attention; and I shall hope the perusal of the charters

will afford to you a development of powers, which, if co-operated with by your representative assemblies, may open a door for a great relief to you, and may render myself the justice which I am entitled to require and have allowed me.

"STIRLING and DOVAN.

"Proprietor and Hereditary Lieutenant of all Nova Scotia, and Lord of the Dominion of Canada."

"53 Parliament Street, London, 28th October, 1331."

These advertisements and addresses were circulated widely throughout Great Britain and America, and systematically followed up in the public prints by explanatory prolusions as to *his Lordship's* titles and rights.

On 22d October, 1831, Mr Humphrys sent in a "claim and protest to his majesty's ministers," in these terms :—

"To the RIGHT HONBLE the EARL GREY, FIRST LORD COMMISSIONER of HIS MAJESTY'S TREASURY, &c. &c. &c. or to whom else it may concern.

"WHEREAS I, ALEXANDER, Earl of Stirling and Dovan, Hereditary Lieutenant, and Proprietor of the Province of NOVA SCOTIA, and the Lordships of Canada, with the pertinents thereunto belonging in North America, on the 2d day of July last, was legally found nearest and lawful heir in special to my great-great-great-grandfather, SIR WILLIAM ALEXANDER, Knight, first Earl of Stirling, &c. and first Hereditary Lieutenant and Lord Proprietor of the territories aforesaid; which verdict of heirship was duly retoured to the Chancery in Scotland, and in virtue thereof, by a precept from his Majesty, directed forth of his Chancery in Scotland to the Sheriff of the County of Edinburgh, I was infeft in the said territories, their parts and pertinents, the Office of

his Majesty's Hereditary Lieutenant of Nova Scotia, and other Hereditary Offices, by Seisin taken at the Castle of Edinburgh on the 8th day of the same month of July, in terms of the original Charters granted to my ancestor, the said SIR WILLIAM ALEXANDER, which, conformably to their covenants and contents, were ratified and confirmed in Parliament, and of which Charters a printed copy, as well in the original Latin as translated into English, is hereunto attached.

"Now I, the said Alexander, Earl of Stirling and Dovan, do hereby give notice to you, the said EARL GREY, as his Majesty's principal Minister, that I claim as my legal right of inheritance, (and into which I am now by law infeft,) all the high and hereditary offices named, mentioned, and described, in the aforesaid Charters, together with all the prerogatives, jurisdictions, judications, distinctions, pre-eminences, powers, and privileges whatsoever, petitory as well as possessory, therein set forth and granted to be inheritably holden, exercised, and enjoyed, as also all the lands, country, and lordships of Nova Scotia, and of Canada, not heretofore legally granted or assigned by my ancestor, SIR WILLIAM ALEXANDER, his immediate heirs or successors; with all and sundry parts, pendicles, and pertinents specially and generally recited in the said Charters, as well in longitude as in latitude, in space or in bounds, islands and arms of the sea, gulfs, rivers, or lakes, with all royalties of mines, quarries, or productions whatsoever, under or above ground, far and near, together with all immunities and liberties expressed in the Charters aforesaid. And I, the said Alexander, Earl of Stirling and Dovan, do hereby protest against the possession or exercise of any of the high hereditary offices to which reference has herein before been made, by any person or persons whomsoever, other than by such person or persons, as by me may have been previously nominated and appointed to act, as and for my deputy therein. And I, the said Alexander, Earl of Stirling and Dovan, do hereby also protest against the appropriations, grants, or assignations of lands, mainlands, islands,

mines, parts, portions, or pertinents of the country, dominion, and territories herein also before referred to, which may have at any time been made otherwise than by my immediate predecessors, the lawful heirs of Sir William Alexander, within the legal time of prescription, to the prejudice of my right or rights of inheritance in the lands, islands, country, dominion, and territories aforesaid.

"And I do hereby further protest against any grant, appropriation, or assignation of any part, space, portion, or pertinent of the aforesaid country, dominion, or territories, to be in future made by application for any person whomsoever to his Majesty's Government, without the consent of myself in writing first had and obtained. Dated this 22d day of October, 1831.

(Signed) "Stirling and Dovan."

"Signed and Sealed in the presence of
T. Bland, 17 Ely Place, Solicitor."

In accordance with the preceding, on 15th June, 1832, a petition was presented to the House of Commons, in name of the Earl of Stirling, against the application for the New Brunswick Company Bill.*

"*Veneris*, 15° *die Junii*, 1832.

"(No. 1123.)

"A petition of the Right Honourable the Earl of Stirling was presented and read, setting forth, that, by the several charters hereinafter stated, of their majesties *James* and *Charles* the First to Sir *William Alexander*, Knight, therein respectively described, the province of *Nova Scotia*, and other territorial possessions in *North America*, were granted to him, and his heirs or assignees whatsoever, hereditarily, to be

* Votes of the House of Commons.

holden by the aforesaid Sir *William Alexander*, his heirs and assignees, in free heritage, free lordship, free barony, and regality for ever; that the petitioner is the nearest and lawful heir in special of the said Sir *William Alexander*, first Earl of *Stirling*, his great-great-great-grandfather, and as such entitled to the possession of all the territories, pertinents, and particulars contained in the charters before and hereinafter more particularly mentioned, that is to say, the first granted by King *James* under the Great Seal of *Scotland*, dated 10th September, 1621, and the second by King *Charles* the First, also under the said Great Seal, and dated the 12th day of July, 1625, the third by the said King Charles, under the same Great Seal, and dated the 2d day of February, 1628; that these charters were afterwards confirmed in open Parliament by the king in person in 1633, the ninth of *Charles* the First; and moreover, that Sir *William Alexander*, who had been created Viscount *Stirling* in 1630, was, by patent dated 14th June, 1633, advanced to the dignity of Earl of *Stirling* and Viscount *Canada*, the latter title being given to perpetuate the name of the territory so granted to him; that, on the 2d day of July last, the petitioner was, before the Sheriff of the county of *Edinburgh*, served nearest and lawful heir in special of the said *William*, first Earl of *Stirling*, on which occasion he (the Petitioner) was, by a Jury consisting for the greater part of members of the Faculty of Advocates and Writers to the Signet, (persons learned in the law,) found to be the heir of his said ancestor in the degree before mentioned, and the verdict was duly retoured to the Chancery in *Scotland;* and thereupon, by a precept from the king, directed forth of the said Chancery to the Sheriff of the aforesaid county of *Edinburgh*, the petitioner was, on the eighth day of the same month of July, infeft in the whole country of *Nova Scotia*, together with the lordship of *Canada*, with all their parts and pertinents, by seisin, taken at the castle of *Edinburgh*, in terms of the original charters before recited; that, by the same charters, the country of *Nova Scotia* having been annexed, united to, and incorporated with, the kingdom of

Scotland, the petitioner was, by means thereof, and in virtue of the seisin and infeftment aforesaid, as much in the possession of the same in law, as if he were actually residing in the province; that the colonies then were originally founded at an enormous expense by the said *William*, first Earl of *Stirling*, who, in so doing, impoverished his family at home by the heavy burdens charged upon the *Scotch* estates, which, soon after his decease, were apprised to pay the same, and which have ever since been suspended from the inheritance of his heirs and successors; that the country of *Nova Scotia*, which, after its foundation, was for some time overrun and usurped by the *French*, was reclaimed by the *British* Government from the *French* at the treaty of *Utrecht*, and on all other occasions when it became the subject of dispute, was demanded upon the sole ground that the occupation of the *French* was an usurpation, the same having been so occupied after the grants aforesaid, and giving the said grants in evidence of a prior title, and that the claim of priority of title and occupation was thereby allowed to the *British* Government, and consequently to the petitioner, as a subject claiming protection under it; that, upon the same ground exactly, the petitioner alleges, that, in fact and in law, any other occupation of any other party or parties, without the express sanction of the petitioner or his ancestors, would be an usurpation on him and his existing rights; that the petitioner hath actually commenced proceedings in the Court of Chancery against the company, or lessees of the company, called 'The *Nova Scotia* Mining Company,' who have possessed themselves of certain portions of the territory, of right belonging to the petitioner, and that the petitioner is ready and willing to bring the validity of his claims to a decision before the legitimate tribunals of the country; that the petitioner is further informed, notwithstanding his aforesaid rights and privileges, a company of persons, styling themselves 'The *New Brunswick* and *Nova Scotia* Land Company,' have applied to the House for leave to bring in a bill, to enable his Majesty to grant them a charter of incorporation, and that such application is now pending,

whereby, if permitted and sanctioned, the petitioner will be grievously injured, unless compensation be provided for him adequate to the portion of his property intended to be applied for the purposes of the said company; that the petitioner hath also heard, that other applications of a similar nature are pending, or about to be made to interfere with the petitioner's said estates and lands in *Nova Scotia*, without any colour of right or pretence whatsoever, but that the same are at present waste and unlocated, which must necessarily lead to the manifest wrong and injury of the said petitioner; wherefore the petitioner humbly prays, that the House will order all unauthorized proceedings to be stayed, until a full and fair inquiry be had into the truth and justice of the petitioner's statement and rights, and that he may be heard in support thereof, by counsel or otherwise, at the bar of the House, or before a committee to be named for the purpose, when all proper parties may be also directed to attend."

The newspapers of March, 1832, teemed with advertisements, such as these :—

"NOVA SCOTIA, NEW BRUNSWICK, AND CANADA.

"Whereas advertisements frequently appear in the newspapers, from an intended joint-stock company, for locating some of the unappropriated lands of Nova Scotia, New Brunswick, and Canada :—Notice is hereby given to all whom it may concern, that these lands were granted by their majesties, King James and Charles the First, to SIR WILLIAM ALEXANDER, the first Earl of STIRLING, under royal charters confirmed by the parliament of Scotland, and to his heirs and assigns for ever, *without any power of revocation whatsoever*, and also with permission to create knights baronets of Nova Scotia; that the present EARL OF STIRLING is the hereditary lieutenant and lord proprietor thereof, having been duly served as lawful heir to the said first earl, and exercised his privileges and rights accordingly. Thus legally invested in the

said territories, his lordship deems it right to give publicity to these his just and undoubted claims; and further, to inform the public, and all others whom it may concern, that no grants of any of the said lands (save those which have been heretofore legally appropriated) can be made by any other person whomsoever; and further, that his lordship is ready and willing to treat for such grants, and to aid and asssist liberally those who are disposed to take them, and become settlers on his said territories, or who wish to obtain tracts of land for former joint-stock companies, or any other individual purposes whatsoever.

"Application to be made at his lordship's chambers, 53, Parliament Street, Westminster.

"*London*, 28*th March*, 1832."*

On the 19th of the same month and year, on the motion of the Earl of Rosebery relating to the evils arising from the practice of persons claiming dormant peerages voting at elections of Scottish Representative Peers, and which was so strongly felt, a select committee of the House of Lords was appointed to take the subject into consideration, with the view of preventing (as his lordship expressed it) "the facility with which persons can assume a title without autho-

* With reference to one of these advertisements, the following paragraph appeared in the Globe of 4th March, 1832:—"We observe an advertisement for the sale of sixty-three thousand acres of land in the province of New Brunswick, at the auction mart to-morrow, the 7th instant, on behalf of the 'Earl of Stirling.' It may not be improper to state, that, on inquiry at the Colonial Department, we find that Government do not recognize the claims which the gentleman assuming that title makes to the unoccupied lands in the province; but have, on the contrary, directed the local authorities to oppose any entry which may be made on any such lands by persons deriving title from grants made by the 'Earl of Stirling.' It is very undesirable that any doubt should exist upon a question of this nature which may have the effect of involving the purchasers at this proposed auction, and any settlers whom they may remove to the province, in very serious embarrassments."

rity, and thus lessen the character and respectability of the peerage in the eyes of the public." *

To the same committee was referred a petition from the Marchioness Dowager of Downshire, the female descendant of the fourth Earl of Stirling, complaining of the undue assumption of that title by Mr Humphrys. Her ladyship conceives, that if the new patent founded on by Mr Humphrys had really been issued, its effect would be to vest the peerage, not in his, but in *her* person,—an inference very correct, so far as the ordinary rules of succession apply.

These *atrocious proceedings* could not be permitted to pass unnoticed by Mr Humphrys, who accordingly favoured the committee with the following protest.

"PROTEST to the Right Hon^ble^ the SELECT COMMITTEE of the HOUSE OF PEERS, appointed to take into consideration the Laws and Regulations now in force relating to the Election of the Representative Peers of Scotland, and to report their opinion to the House.

"MY LORDS,—Having learnt that a petition of the Marchioness of Downshire, Baroness Sandys, lately presented to the House of Lords, and complaining of my having assumed the Earldom of Stirling without right or authority, has been referred to your Lordships, I take leave most respectfully to lay before your Lordships the following protest against the said petition being entertained in any respect whatever.

"If the Marchioness of Downshire has any right to question my title, the courts of Scotland, where it has been established, are, I submit, the proper courts to apply to, and not at your Lordships' bar, in the first instance; for that, as a peer of

* "Mirror of Parliament," p. 1280.

Scotland, duly retoured in the Chancery at Edinburgh, and entered upon the roll, it is there only that the Marchioness could reduce the title by due course of law in Scotland.

" Were the Marchioness to apply to such authorized and competent tribunals, and a questionable judgment given, or a judgment unfavourable to her wishes, then, doubtless, an appeal would lie to your Lordships' superior and appellant jurisdiction; and there I, too, would have to attend your Lordships, as any other suitor, in support of my just rights.

" That this exception taken to your Lordships entertaining the petition at all in its present form, is founded on the well known laws and customs of Scotland, their unrepealed force since the union of England and Scotland, and by the articles of the Union, whereby they are protected in all their integrity and power, as applicable to my particular case.

" By the laws of Scotland on precedency, a decreet was pronounced in 1606 under a commission granted by King James VI. to some noblemen, upon citation, that if any of the noblemen therein prejudged did reclaim, they were to raise a reduction of the said decreet before the session, and adject a conclusion of declarator, craving it might be found and declared, that they ought to have precedency from the noblemen whom they therein cited. But (without) prejudice always to such person or persons as should find themselves in their interests prejudged by their then present ranking to have recourse to the ordinary remeed of law, by reduction before the Lords of Council and Session of the said decreet, recovered, and of their due place and ranks, by production of more ancient and authentic writs, nor (than) had been used in the contrary of that process, summoning all such persons thereto as should think themselves wrongously ranked, and placed before them; and in the meantime, that this present determination to stand in full force, &c. (Sir George Mackenzie's Works.)

" In addition to the aforesaid decreet, the statute 6 Anne, cap. 26, sec. 22, has provided that the validity or invalidity and preference of the title of the crown to any honours,

manors, lands, tenements, or hereditaments, or to casualties belonging to the Crown, shall continue to be heard and decided in the Court of Session as was used, and of right ought to have been by law and practice of Scotland at the time of the Union, and not otherwise, any thing in this act contained to the contrary notwithstanding.

"And, moreover, the act for establishing the new Court of Exchequer in Scotland leaves the determination of all civil and patrimonial rights even between the king and subject, to trial and decision of the Lords of the Session, as was used before the Union.

"Now my Lords, I contend that the Marchioness of Downshire ought to be required to establish her right to the Stirling peerage before I am called upon to answer; and that consequently she should be sent to the Court of Session to dispute my right to the honours of the peerage, where she would necessarily be compelled to condescend upon and prove her title to sue; and that in no other cause can equal justice be done to both parties, according to the laws in such case made and provided.

(Signed) "STIRLING."

From 4th April to 21st August, 1832, a series of letters argumentative in Lord Stirling's favour by "A. B." (a convenient friend, presumed to be the genealogical Baronet of Nova Scotia, previously mentioned,) appeared in the columns of the Morning Post and the Times. They resemble the other "fugitive pieces" emitted by the adherents of this "much injured nobleman," with this exception, that they are so very trashy as not to merit reprinting.

After the dissolution of Parliament, in December of that year, Mr Humphrys addressed the following letters to the Peers of Scotland. It is very obvious

that his absence was influenced by other reasons than those stated in the epistle.

"To the Right Honourable the Peers of Scotland.

"My Lords,—When the dissolution of Parliament took place, I had at first contemplated attending personally to give my vote at the ensuing election; but having since reflected on the invidious treatment I experienced from a few hostile parties on the last occasion of exercising my peerage right, I have changed my mind. Those among your Lordships who were present, will remember how my opponents acted, and how I defended myself. I have the satisfaction of knowing that my conduct at the time, and my public address to your Lordships afterwards, were approved by my friends in the peerage; and I cannot doubt that my determination now, not to expose myself unnecessarily to a repetition of such attacks, will be applauded when my motives are known.

"Be assured, my Lords, that I am not deterred from voting at this election by any fear of consequences, for, as right is on my side, I pursue my course without timidity. My reasons for standing aloof are,—

"1st, Because I think it incompatible with my principles, and with the proper dignity of a Peer of Scotland, to submit to treatment which I consider is derogatory to both.

"2d, Because when I look to the motion made by the Earl of Rosebery in the last Session of Parliament, on the subject of the Peerage of Scotland, and recall to mind that not one of the sixteen Peers chosen to represent the high and ancient body of the nobility of that once renowned kingdom, rose in defence of their privileges, of the usage by which their descents have hitherto been governed, and of their rights of blood, (which by the Act of Union were, nevertheless, preserved to them independent of English control,) I am reluctantly brought to consider, that if such be the estimation in which the dignity

of a Scotch Peer is appreciated by those who are our representatives, it can little matter to me who shall be returned at the ensuing election; and as I have no political bias — no hasty purpose to answer — and nothing to ask of ministers excepting the dispensation of justice, which, liberal as they profess themselves to be, I have as yet had no experience of— I entertain no concern for the result of who may be selected on the day so near at hand.

"I hear it boldly asserted in this country, my Lords, that a few steps more on the part of my opponents, if they be not checked in their reckless course, may give a death-blow to the privileges of all Scots Peers who have not seats in the House of Lords. Those especially who are known to have followed the laws and usages of Scotland in taking up (themselves or their predecessors) their titles, as I have done mine, are particularly pointed at as being liable to the same attacks from the enemies of the Order. Some noble Lords have done me the justice to applaud my fearless defence of the rights of the Scotch Peerage, and I only regret that it has not yet been felt how much the whole body are interested in the success of my protracted struggle. As for the small number who have shewn themselves hostile to my cause, and have joined in the attempts to crush me, I confidently hope that a great change will soon be effected in their opinions, which must have originated in erroneous views, or rather should I say, in an entire misunderstanding of my extraordinary case. In ancient times your Lordships' noble, valiant, high-minded, and independent ancestors would not have brooked such interference with their rights and privileges, or such contempt for the laws of Scotland, as has been unblushingly exhibited in the proceedings against me by those who, to answer political purposes, or to gratify private jealousy or spleen, have endeavoured to subvert my rights. And can I suppose that you, my Lords, who are the descendants of those illustrious Peers, will think or act differently? No, I should be wanting in proper respect for your Lordships if I imagined it was possible that any one, after mature reflection, would give his sanction to

proceedings by which the honour, dignity, and independence of all are attacked. When fully understood, (which has not been universally the case hitherto) my cause must be warmly and energetically taken up, as one affecting, and, therefore, interesting the whole Peerage of Scotland; and should prejudice or party influence make any noble Lord so reckless of consequences as to defend the course pursued by my enemies, I trust that such an example will find no imitators.

"Meantime, under all the circumstances which afford me reason for the determination I have come to, I will not interfere to sanction by my vote one representative, either to support or to oppose his majesty's ministers. The day of retribution, I feel, is not far off, and then I may act a part which I have no doubt will cause me to be differently respected and considerd by those who are now pleased to cavil about straws; and who would deny me all but what they cannot give nor take away, — namely, a rectitude of conscience and principle, which, in point of honour, stands as high and uncontaminated as that of the proudest of my opponents. — I have the honour to be, my Lords, your Lordships' most faithful servant,

(Signed) "STIRLING."

"Richmond, 1st January, 1833."

We now proceed to another act in this drama of Perkin.

Having voted at all the elections of Scottish Peers since 1825, (twice without protest,) both in person and by signed lists, (Appendix, No. IX.); having successfully pled in English Courts of Law his privilege as peer from arrest;* having pestilently addressed the

* See Judgment of the Court of Common Pleas, on motion to set aside the writ, and cancel the bail-bond, in DIGBY, KNIGHT, *v.* LORD STIRLING. — Bingham's Reports, VII. 55.

ministry in character of Earl ;* having deluded numerous individuals by his pretensions ; and, in short,

* Against the appointment of Lord Durham to the Governorship of Canada, Mr Humphrys forwarded a solemn protest to Lord Melbourne. As no copy of this document can be found at the Colonial Office, the following translation of it is taken from the columns of "La France," for 22d March, 1838. The postscript must evidently have been added by Mademoiselle Le Normand, or some one of her satellites.

" ON NOUS PRIE D' INSERER LA PIECE SUIVANTE :

" *Traduction d' une protestation contre les mesures du gouvernement anglais dans l' affaire du Canada, envoyée le* 27 *janvier* 1838, *au vicomte de Melbourne, premier ministre d' Angleterre.*

" Moi Alexandre, comte de Stirling, lieutenant héréditaire de Sa Majesté dans la province de la Nouvelle-Ecosse (comprenant le Nouveau-Brunswick) et les provinces du Haut et du Bas-Canada, etc. etc.

" Attendu que le gouvernement de la reine, dans la crise importante où se trouvent les affaires de la nation, se propose d' obtenir l' autorisation du parlement pour prendre des mesures qui porteraient atteinte non-seulement à mes propres intérêts, mais aussi aux intérêts du peuple habitant le territoire dont je suis le seul propriétaire légitime, — et de plus que le très honorable John George, comte de Durham, vient d' être nommé pour exercer, en qualité de gouverneur-général et grand délégué de Sa Majesté dans les provinces susdites, le dictature la plus absolue, faite pour causer le mécontentement universel et donner lieu aux conséquences les plus désastreuses, non seulement dans ces provinces, mais encore dans la mère-patrie, pour ceux qui sont propriétaires de terres et intéressés à leur conservation.

" Pour ces causes, moi Alexandre, comte de Stirling, je fais par les présentes ma protestation solennelle :

" 1° Parce que le gouvernement de Sa Majesté n' a aucun droit de proposer que des lois soient faites, ou qu' une nouvelle constitution soit reçue dans les limites du territoire dont je suis le seul propriétaire, en vertu de chartes royales, confirmées par un acte du parlement ; lesquelles chartes m' ont investi, en qualité d' héritier et représentant de la personne de Guillaume, comte de Stirling, le premier concessionnaire de tous les droits, pouvoirs et priviléges que ledit gouvernement s' est arrogés et qu' il veut exercer ;

" 2° Parce que, dans l' état d' excitation et de trouble où se trouvent aujourd' hui les deux provinces du Canada, il est aussi imprudent qu' injuste de nommer ledit John George, comte de Durham, ou aucune autre personne, au gouvernement de ces provinces, avec des pouvoirs si despotiques ;

" 3° Parce que, prévoyant les conséquences qui s' ensuivront des mesures proposées, je me sens impérativement appelé a protester contre, comme tendantes à redoubler les embarras et la confusion des affaires de ces colonies déjà si agitées, et à effectuer cette séparation d' avec la mère patrie qu' on pourrait empêcher par une judicieuse et prompte reconnaissance des pouvoirs dont je suis investi ;

" 4° Parce que ces pouvoirs, *confirmés par acte du parlement*, constituent de fait les droits et les libertés du peuple de l' Amérique anglaise ; et

having all along conducted himself as the real Simon Pure, a peer immaculate, *sans tache, sans peur, et sans*

pour cette raison tout tentative de la part du gouvernement de Sa Majesté de faire des lois (encore moins des lois despotiques) en opposition à ces droits existans, est une violation dudit acte du parlement, comme aussi de mes droits privés, et une infraction des libertés du peuple habitant ledit territoire ;

" 5° Parce que de grandes concessions de terre, faites depuis quelques années, au mépris de mes droits et priviléges, à bien des personnes attachées par intérêt au gouvernement, sont par là mises en peril ;

" 6° Parce que, désirant empêcher une effusion de sang inutile, et qui, pour ces raisons, serait inexcusable, et voulant unir sous des conditions plus libérales et avantageuses les colonies à la mère patrie, j' ai souvent et instamment offert au gouvernement la considération de l' importance de mes droits, comme le seul moyen certain par lequel ces objets pourraient être atteints ;

" 7° Parce qu' une vaine tentative a été faite, par un procès lent et ennuyeux d' éviter ou de retarder l' exercice de mes droits et pouvoirs héréditaires, le gouvernemente de Sa Majesté n' ignorant pas maintenant qu' ils sont bien fondés et suffisamment prouvés ;

" 8° Parce que l' influence de nombreux individus, qui, pour des motifs particuliers ont toujours désiré d' empêcher le succès de ma juste cause, a eu assez de pouvoir sur l' esprit des ministres de la reine pour les animer contre moi, de manière que mes réclamations ne sont pas accueillies avec cette bonne foi et franchise que j' ai toute raison d' attendre dans les circonstances actuelles ;

" 9° Parce qu' étant moi-même animé par des sentimens de loyauté envers Sa Majestè, comme ma souveraine, et par amour de la patrie, j' ai toujours été disposé à traiter sous les conditions les plus libérales pour que mes droits soient reconnus d' une manière à concilier les esprits généralement, assurer le bonheur et la prospérité du peuple habitant les provinces sus-dites et par là étendre et renforcer le pouvoir et l' influence de la Grande-Bretagne.

" Finalement, moi, Alexandre, comte de Stirling, par les présentes, fais solennellement ma protestation contre les mesures tout à la fois imprudentes et inconstitutionnelles proposée par le gouvernement de Sa Majesté, pour les raisons déjà données, et je réitère ici ma résolution de maintenir, comme je suis autorisé de le faire, mes droits justes et légitimes, des droits achetés chérement par la ruine de ma famille en tentant la première colonisation des provinces de l' Amerique anglaise.

STIRLING."

" Edimbourg, ce 25 janvier 1838."

"*P.S.* — Une ancienne carte du Canada, couverte d' autographes précieux et d' attestations par les hommes les plus illustres, (pièce parfaitement légalisée,) vient d' être remise dans les mains du descendant et représentant actuel du noble propriétaire du Canada et fondateur de la Nouvelle-Ecosse, (le premier comte de Stirling en 1621.) Cette découverte, don d' amitié, doit assurer le triomphe de sa juste cause devant la cour supérieure d' Ecosse. Les honorables pairs du parlement anglais sauront venger, sans doute, Lord Stirling, en le rétablissant dans ses droits."

reproche, — the Crown Lawyers were, on grounds of public consideration, compelled to interfere and demolish his assumed plumage.*

As was previously noticed, an action of Declarator was instituted by Banks, which was defended by the Officers of State. The proceedings in this action were sisted in consequence of another of Reduction-Improbation, which the defenders brought against Banks and his fountain of honour, Mr Humphrys, in order to ascertain the validity of those documents upon which the latter based his right to assume the earldom.

The writs called for in this case were the brieves in the general and special services, with all proceedings thereon, and also the procuratory of resignation given to Banks. Some of these documents had been addressed by Mr Humphrys in the action at his instance for proving the tenor; and as they had every appearance of being forged, were retained in the hands of the clerk of Court.

Had Mr Humphrys desired to go correctly, we need not say fairly, to work, in his endeavour to make out a claim, he would first, under his general service, have extinguished, by legal evidence, the whole descendants of the Earl of Stirling, prior to his alleged ancestor, John, the fourth son. But, on all this part, he implicitly relies upon, and quotes Douglas' Peerage;†

* "Complaine or do what you will,
Of your complaint it shall not skill;
This is the tenor of my bil,
A daucocke ye be, and so shal be still."
SKELTON, *Why come ye not to Court?*

"And make here of a sickel or a saw,
For though ye live a hundred yere ye shall dye a daw."
IBID. *Ware the Hawke.*

† This work, even as improved by Wood, is of very doubtful authority. It is, however, perfection when compared with his Baronage, a book so execrable, that it would not even serve as the basis of a new edition. A Scottish Peerage and Baronetage is much wanted, but there is only

and he attempts to extinguish the descendants from the three elder brothers of John, by extracts from the baptismal and burial registers of the parishes of Binfield, Berks, and St Anne's, Westminster, which extracts have never yet been nor can be made evidence in the case.

But, supposing he had extinguished these descendants, and laid the honours and estates open to John, the fourth son, his procedure would have been equally erroneous. For mark how he enlightens the Canongate Magistrates. He states, that this John married Agnes, daughter of Sir Robert Graham of Gartmore, by whom he had a son, John, settled at Antrim, in Ireland, who had a son, the Rev. John Alexander, father of Hannah Humphrys, the claimant's mother. And this he seeks to establish by such *proofs* as the following.

First, He exhibits the deposition of his sister, Mrs Pountney, (calling herself Lady Eliza,) taken on commission from the Bailies of Canongate; *secondly*, copy of an alleged deposition by one William Trumbull, son of Sir William Trumbull;* *thirdly*, an alleged voluntary affidavit by one Sara Lyner of Ballyrydor, in the parish of Stradbally, Queen's County, Ireland; and, *lastly*, a similar voluntary affidavit by Henry Hovenden of Ballynakill, gentleman.

By reference to these documents, (*vide* Appendix, No. II.) it will be clearly perceived that the deposition of Mrs Pountney says nothing about John of Gartmore,

one gentleman in Scotland capable of the undertaking, and he, it is greatly to be feared, will never put his shoulder to the profitless and unrepaying task. Need I mention my friend Mr Riddell?

* Secretary of State, and the friend of Pope, who wrote his epitaph, and has preserved some of his letters. See notice of him in Burnet, *Hist. Own Times*, and *Biographie Universelle*.

and is objectionable on the score of relationship; that Trumbull's is also silent, *quoad* John of Gartmore, and seems a fabrication; that Lyner's is entirely *ex parte*, signed by a mark, and no account given why it was taken, or how it came into Mr Humphrys' hands; and that Hovenden's is worse than all, proving nothing of the descent, and evidently a forgery.

Such was the evidence adduced by Mr Humphrys in the general service—the foundation of all his subsequent measures; and from it, it is plain that, even had he succeeded in extinguishing the three previous branches, he has not connected himself with the fourth. This, by the additional proofs and productions in the process, (Appendix, No. II. proof taken on commission in Ireland,) he now attempts to do.

Assuming that the three branches have been extinguished, and that the Rev. John Alexander was the grandfather of Mr Humphrys, what evidence is there that the father of this clergyman was a *legitimate* son of John, the fourth son of the Earl of Stirling? The Officers of State admit that John of Gartmore had a daughter, but deny that he had a *son*. Mr Humphrys maintains that he *had*, and that he was named John, was settled at Antrim, where he died in 1712, and was interred at Newton Ards, with a long and laudatory inscription on his monument.

To bolster up this fiction, he has recourse again to the voluntary affidavits of Lyner and Hovenden; to the evidence of Margaret M'Blain, an old woman of eighty; of Mary Lewis, aged eighty-six; and Eleanor and Samuel Battersby, each about fifty; to these he adds the alleged inscription on the monument, and the sole evidence of its existence by the aforesaid M'Blain.

By reference to these evidences, (Appendix, No. II. proof in Ireland, *ut supra*,) it is manifest that Lyner's merely attempts to shew that John of Gartmore brought with him to Ireland his son, John, who afterwards settled at Antrim, and in the service of whom she lived. Mr Humphrys does not in any way touch upon the history of this document, which is *ex parte* and inadmissible, unless propped up by other testimony; it is engrossed in the nomograph of the period, but that also is unsupported; and, even if it were correct, it could not benefit Mr Humphrys, as it neither testifies nor throws light upon the legitimacy of John. It moreover seems to require interpretation why this deposition should have been made in 1722, when, by Mr Humphrys' own evidence in the alleged deposition of Trumbull, and the inscription on the monument, the last earl died only in 1739, seventeen years afterwards.

As to the deposition of Hovenden, presuming it to be free from all other objection, it is merely matter of hearsay. But both that and Lyner's are sufficiently proved by the chemical evidence, (Appendix, No. I.) to be forgeries.

Mr Humphrys having discovered that this evidence was wholly useless, took a commission for the examination of witnesses both in England and Ireland, to supply the deficiency. But, although it is said that John was settled in Antrim, was proprietor of considerable property, had founded or endowed charitable institutions, and died there in 1712, Mr Humphrys never went to that town in search of proof of these assertions. He has adduced no evidence of John's existence, or even connection with the Earl of Stirling; and all his witnesses are ignorant and illiterate peasants,

unlikely to remember any such circumstances after the lapse of so many years.

The evidence of M'Blain proves nothing as to the source of information of Lady Mount Alexander, a native of France, who, according to this witness, died in 1772, at the age of sixty-five. In this case it is impossible that her ladyship could have spoken from her own knowledge, because, if she was sixty-five years old when she died in 1772, she must have been born in 1707; while John died in 1712, when her ladyship was in France, an infant of five years old. It seems, too, severely improbable, that she should have made this youthful menial of fifteen — this *servant's servant*, (as is proved by her own evidence,) — the confidential repository of her family annals, of dry genealogical details, which were unlikely to interest or be comprehended by her. Finally, it is abundantly manifest that M'Blain is unworthy of testimony, having the reputation of a perjured and improper character. (Appendix, No. I.—Irish proof.)

The evidence of Eleanor Battersby is equally absurd and useless. It is the report by a girl of thirteen of what her grandmother's father had told her grandmother, regarding what neither could have had any interest in, and which could not have taken place later than thirty-eight years back.—Such is the amount of the oral evidence.

As to the alleged Bible-inscription, which is printed in Roman letters with a view to prevent detection of pseudautograph, Mr Humphrys led a proof both in England and Ireland. But all that is proved in England is as to the signature of Abel Humphrys and John Berry being genuine. That of Hannah Alexander is in no way authenticated; and there is no

evidence who Mr Lyttleton was, or that he ever copied any inscription. Further, Mr Humphrys returns to Ireland for support of the monumental inscription, where his views are again promoted by the veracious Mrs M'Blain, the value of whose testimony has already been disposed of.

The residue of Mr Humphrys' evidence is on a par with that which has been specially discussed. It is all, as John of Antrim might have said, "mere blarney;" and the acute and perspicuous note appended by Lord Cockburn to his interlocutor in the process of reduction, 20th December, 1836, (Appendix, No. III.) affords a distinct view of the stratum whereon these *Chateaux en Espagne* are based. The Officers of State properly maintain that the whole writings are forged, and that no monument or inscription ever existed.

After the very specific judgment of the Lord Ordinary, it might have been prudent had Mr Humphrys either reclaimed from it, resting his case on the same material, or else succumbed quietly to the decision, although adverse. But that hallucination which seems frequently to attend claimants to dormant titles — Sir Egerton Brydges, for example — impelled him, in November, 1837, to lodge a minute in process, narrating the recent "discovery" of a variety of documents "which tend very materially to strengthen the evidence of propinquity, in regard to the two descents referred to by the Lord Ordinary," and which documents he desired might be tendered as evidence in the case. This minute, with relative copies of the said documents, forms Appendix, No. IV.

To this minute answers were given in for the Officers of State, (Appendix, No. V.) in which they denied the validity of these documents, objected to their being

produced as evidence, and moved that Mr Humphrys might be judicially examined relative thereto. The prayer of the motion having been granted, Mr Humphrys was, on the 18th December, 1838, judicially examined, when he emitted the declaration, Appendix, No. VI.

On 22d of same month, an order was issued by the Court, directing that the original letters should be exhibited to the clerk of Court, to be by him compared with the excerpts of the same, produced in process, and instructing him to report on such points thereanent, as he should consider proper for the information of the Court. This was executed accordingly, and on 3d January, 1839, the report and additional productions, Appendix, No. VII. were given in. These were followed on 28th February, by a Supplemental Report and Productions, Appendix, No. VIII.

The result of these latter proceedings was, that on 18th March, 1839, Mr Humphrys was served with an indictment to stand trial for FORGERY, before the High Court of Justiciary, on the 3d day of April following. On that occasion, his counsel having moved for delay, the diet was continued till the 29th of the same month. An accurate report of this *cause celébre* will, it is presumed, be found in the succeeding pages. From the various attendant circumstances — the complex ingenuity displayed in the fabrication of the documents libelled on — the magnitude of the prisoner's pretensions, and the extensive notoriety which they had procured for him — no case for many years has excited more interest or attracted greater attention. The trial lasted five days, during which time every cranny of the Court was occupied by the rank and fashion of Edinburgh. The number of ladies present

gave an air of brilliancy to the assemblage, which resembled the audience of a theatre rather than of a hall of judgment. And all this to witness the infirmities of poor human nature!

The whole proceedings of Mr Humphrys during the progress of his "claim," have been, to speak artistically, "in keeping;" and he deserves credit for the manner in which he has conducted himself under his assumed dignities. Not even Abon Hassan, in his dream of sovereignty, could have performed the part with greater propriety.

Of his early history little is known, save what appears from the evidence adduced on his trial. His father, it seems, was a respectable merchant in Birmingham, who lived in good style. He went abroad in 1802, accompanied by his son, the claimant; and not immediately returning upon the declaration of hostilities, which succeeded the short peace, was, in common with many other natives of this country, arbitrarily detained by Napoleon. Mr Humphrys, the elder, died at Verdun in 1807, and the son remained a prisoner in France till the general peace in 1814. He returned in 1815, and commenced business as a teacher near Worcester.*

When Mr Humphrys first bethought him of aspiring to the honours of a peerage does not precisely appear; but it is not improbable that his pretensions were first

* This is spoken to in the evidence. Prior to the trial, a paragraph in the Worcester Chronicle of March, 1839, mentions that "the Earl of Stirling, who is now under prosecution in Scotland, on a charge of forging certain documents, calculated to forward his claim to the peerage, formerly kept a school near Worcester, called Netherton-House Academy. He then went under the name of Mr Alexander Humphrys."

directed or acted upon by Mr — we beg his pardon, Sir T. C. Banks, Bart. N. S. — (who, by the way, we are surprised was not cited by the Crown, as he likely could have thrown considerable light on the controverted points.) His first step was to adopt, in 1824, the name of Alexander, which he accomplished by royal licence, as previously mentioned. It is remarkable that this warrant bears no reference to his alleged descent from the family of Stirling. His subsequent proceedings have been already detailed; but there remain still some delicious *morceaux* connected with his arrival in that part of her majesty's dominions called Scotland.

Having resolved, *qua* Earl of Stirling, to visit the ancient and royal burgh of that name, we find in the "Stirling Journal" of Thursday, 9th June, 1825, that "The Right Honourable Alexander Earl of Stirling and his Countess arrived at Gibb's Inn here, yesterday evening. The circumstance of his lordship's arrival was no sooner known to the magistrates, than the bells were set a-ringing; and about eleven o'clock to-day they waited on his lordship, to congratulate him on his visit to the residence of his noble ancestors. His lordship, in the course of the day, visited the castle, and every part of the town worthy of notice, and seemed to take peculiar interest in viewing Argyle Lodge, formerly the town residence of the Earls of Stirling."

In the same newspaper of 16th June, 1825, it is mentioned, that "On Friday the Earl and Countess of Stirling left Gibb's Inn for Glasgow, on their return to Worcestershire. His lordship left a donation of £5 with the treasurer of the kirk-session for the poor of the parish."

All this is very fine. So is the following certified

extract from the town council records of the aforesaid burgh : —

" At Stirling, the twenty-seventh day of June, one thousand eight hundred and twenty-five years.

" Which day the magistrates and town council of the burgh of Stirling being convened, they resolve to elect and admit the Right Honourable Alexander Earl of Stirling to be a Burgess *qua* Guildbrother of the Burgh ; and authorize the Provost to subscribe a proper ticket of admission, and transmit the same to his Lordship ; the expense being to be defrayed by the Town, and authorize the Chamberlain to pay the same accordingly."

" Extracted from the records of the Town council of the burgh of Stirling, by

(Signed) " WM. GALBRAITH, Town clerk."

The preceding ceremonious deferences to Mr Humphrys may be attributed to the circumstance of his having employed one Mr James Wright, a writer in Stirling—the gentleman who first introduced the titular lord to Mr Lockhart, (*vide* Mr Lockhart's evidence)—to assist his inquiries with reference to his " claim." This gentleman naturally desired the elevation of his client, and, doubtless, failed not to impress the worthy civic dignitaries with a sense of his importance. It was rumoured that, having informed Mr Humphrys that the burying place of the old earls of Stirling was in a state of ruin and defilement, Mr Humphrys, as a mark of regard for services rendered, presented Mr Wright with the family aisle in the West Church, for a final resting place to himself and family ! ! ! Mr Wright accordingly entered upon possession ; and, in the course of time, took *personal infeftment.*

We have been favoured with some notes relating to this affair.

"When Bowey's aisle" (the old name for what afterwards belonged to the Alexanders) "was dismantled, the monument erected by the Countess of Stirling, to the memory of Sir William Erskine and his wife,* whose only child she was, was in a state of perfect preservation in the side of one of the buttresses of the church, which projected a little into the aisle; and as the buttress was not taken down, this monument remained, till it was removed a few years ago by the family of Mr James Wright, writer, in order to make way for a monument erected by them, to the memory of that gentleman, on the very spot in which it stood."

The memoranda farther bear:—"The aisle does not seem to have been carried off by the creditors of the

* Sir William Erskine was parson of Campsie, Commendator of the Bishopric of Glasgow, a younger brother of the family of Balgony, and cousin-german of the Regent Mar. (*Vide* Crawfurd's Peerage, *voce* Alexander Earl of Stirling.) The following is the inscription on the monument above referred to, erected by Janet Countess of Stirling, to the memory of her parents:—

"Hic jacet in spe resurrectionis
Gulielmus Æreskinus Equestris
Ordinis, cum Joanna Conjuge,
Illustri et communi Æreskinorum
Familia orta, singulari virtute
Fœmina, unica filia superstite,
Quæ postea Gulielmo Alexandro
Equite egregio, Jacobi Regi a
Supplicibus libellis, Carolo
Regi ab Epistolis, et utriusque
Regni a consiliis, nupsit, Famili-
Amque ejus numerosa sobole auxit,
Et hoc monumentum
Parentibus Pie
Posuit."

I have deemed it right to preserve this inscription, as the monument has been removed, and very possibly may be broken up. It was pulled down by Mr Wright, and thrown aside into an outhouse, to which access could only be obtained by the interference of the public authorities, when on a recent occasion inspection of the monument was required.

family, like the palace, but remains at this moment in the *hereditas jacens* of the earl. Mr Wright obtained possession of it before it was pulled down, buried his wife and son in it, and was latterly interred in it himself. The site of it is now enclosed with a stone wall and iron railings, erected when the West Church was repaired." "The aisle is remembered to have been occupied as a joiner's shop, or place for holding the wood of a joiner in the neighbourhood, before the late Mr Wright began to bury in it."

Mr Humphrys managed to inlist a large portion of the periodical press in his favour; and, accordingly, the public has, for a series of years, been enlightened by occasional puffs of trashy publications relating to his "claims," of indignant Jeremiads and *incidental paragraphs*, all tending to mystify "the many," and inlist their sympathies in his favour. Every now and then advertisements similar to this appeared.

"INTIMATION.

"Lord Stirling respects the motives which have induced T. W. C. to withhold his own name and address; and having ascertained, by the reference to Sir G. M. the perfect truth and correctness of T. W. C.'s information, he feels bound in gratitude for so generous and well-timed a disclosure of important facts on the part of a stranger, to comply with his request of a 'short acknowledgment in either the Edinburgh or London newspapers.' Lord S. begs to assure T. W. C. that all his statements respecting the amissing charter of 1639 have been verified by the search, and will soon completely effect its discovery. The information sent, respecting dark intrigues of the opposite party, will be useful; but T. W. C. will be glad to hear that, as might have been expected, those men who seek the overthrow of a family by treachery—whose plans are supported by fabricated papers and defamatory state-

ments—*have traitors in their own camp*, to whose revelations Lord S. is indebted for ample means of exposing and punishing the chief conspirators.

(Edinburgh Advertiser.)

"20th September, 1836."

The marriage of his daughter, Miss Angela Humphrys, afforded another opportunity for "tickling the trout;" and in the newspapers of April, 1835, it was thus noticed, care being taken to preserve the usual inaccuracy of rumour in like cases.

"*Runaway Match in High Life.*—The gossips of Edinburgh have experienced considerable excitement from the circumstance of an Englishman having eloped with the fair daughter of a Scotch Peer. The young lady is the beautiful Lady A[ngel]a A[lexande]r, only daughter of the Earl of S——g, (who has recently claimed the title,) and the bridegroom is W——e P——n, Esq. a person of good property in Cheshire.* The parties were married yesterday, at St James's, by the gentleman's brother, and instantly departed for Paris."—LONDON PAPER.

The deposition of Mr Tyrrell throws some light on the mode in which funds were raised for support of his claims.

In the "Narrative of the Oppressive Law Proceedings, &c. against the Earl of Stirling," (Edinburgh, 1836, 4to.) there is a curious invention about a design to entrap this "*much injured nobleman*" by Lord Goderich's private secretary. This is apt to startle the unwary reader, and may perhaps afford matter of future speculation as to the cause of this deep laid

* Scraptoft Hall, the residence of Mr Pearson, is situated in *Leicestershire*, a few miles from the town of Leicester. See an engraving of it in Throsby's Views, vol. I. and a more enlarged description in Nichols' Leicester, vol. II. It was originally the seat of the family of Wigley.

scheme of tyranny, and the inquisitorial practices resorted to by the British Cabinet. We would venture to propose a solution of the enigma. Might it not be a trait of the professional tact of a bailiff employed by some long deferred and disappointed creditor—Sir Henry Digby for example—whose cause against the "Earl" might then be pending?

With reference to Mr Humphrys' dealings with Mademoiselle Le Normand, this paragraph occurs in one of the Times of April, 1838:—"Extract of a letter Paris, April 26:—The Emperors Napoleon and Alexander, and dozens of individuals (after them) of the first distinction, with thousands of the common file, have, from time to time, consulted the famous Parisian fortune teller, Mademoiselle Le Normand. Are you aware that the wise and grave elderly gentlemen, who constitute the present Cabinet of Great Britain, have, through Earl Granville, been dealing lately with that celebrated *tireuse des cartes?* To be serious, however, the following comes from an unquestionable source:—The British Government has called upon that of France to institute inquiries respecting certain deeds which a *soi-disant* or a real Lord (Alexander) Stirling has produced, and on which he grounds a claim to the inheritance of the whole of Canada. His lordship has, moreover, protested against the mission of Earl Durham. It appears that when lately in Paris, his lordship obtained from Mlle. Le Normand certain documents, on which he rests the claim just mentioned, and copies, or a description of which he has laid before the British Government. In consequence of an application of Earl Granville, Mlle. Le Normand was yesterday summoned to the Prefecture of Police, when she was called upon to state in what way the

documents in question had come into her possession. She replied that they had been left with her *en depot* by a party respecting whom she either would not or could not give any account. All that could be obtained from her in addition, was an admission that she had received money for the papers."

At the same time, and in connection with the above, the Standard remarks:—"Lord (Alexander) Stirling, if Lord he be, seems to be a fortune hunter, and therefore sought a fortune teller in the celebrated Mlle. Le Normand; of course his lordship's wishes were soon complied with, and upon the payment of the required fee, Mlle. produced a bundle of papers, authorizing his lordship to put in his claim for 'the whole' of Canada."

With reference to the criminal prosecution, we cannot help thinking that it was very inexpedient, as the excerpt charter, which was the basis of any claim Mr Humphrys could set up, might, if such a step were really necessary, have been set aside at a comparatively trifling expense by a process of reduction-improbation in the Court of Session. Indeed, we should have thought that the reduction of the service and infeftment would, of itself, have answered every useful purpose; as it is, the country has been put to an enormous expense without any corresponding benefit, as the Jury have only decided that which the Judges of the Court of Session could have done, namely, that the writs by which Mr Humphrys endeavoured to support his imaginary claims are false and fabricated. In conclusion, we may express an opinion in conformity with that of the majority of the Jury, for we think it exceedingly

possible that this unfortunate gentleman has been the victim of an hallucination which has rendered him, as his counsel states him to have been, "the dupe of the designing, and the prey of the unworthy." However strongly we reprobate his absurd and preposterous pretensions, we can, with difficulty, bring ourselves to believe that one whose character stood so high in the opinion of gentlemen of undoubted and unblemished reputation could ever have perpetrated the criminal actions laid to his charge.

The following note, which refers to the claimant of 1762, could not be conveniently introduced at page 4, without overloading it:—

"The present Earl of Stirling received from a relation an old box of neglected writings, among which he found the original commission of Charles I. appointing his lordship's predecessor, Alexander, Earl of Stirling, commander-in-chief of Nova Scotia, with the confirmation of the grant of that province made by James I. In the initial letters are the portraits of the king sitting on the throne delivering the patent to the Earl, and round the border representations, in miniature, of the customs, huntings, fishings, and productions of the country, all in the highest preservation, and so admirably executed, that it was believed of the pencil of Vandyck; but as I know no instance of that master having painted in this manner, I cannot doubt but it was the work of Norgate, allowed the best illuminator of that age, and generally employed, says Fuller, to make the initial letters in the patents of peers, and commissions of ambassadors."—Walpole's Anecdotes of Painting, edited by Dallaway, vol. ii. p. 45. Norgate was Windsor herald, and clerk of the signet. *Vide* Master's Hist. of Corpus Christi Coll. Cambridge, p. 118.

Banks, in his "Analytical Statement," p. 62, wishes to make out that the above was the pretended charter of 1639, because, saith he, "He was appointed Windsor herald in 1633, and *soon after* illuminator of royal patents;" *ergo*, "the charter mentioned by Walpole could not be before 1633, but must have been one after that time." Where Mr Banks discovered grounds for "*soon after*" we know not. He was *not appointed* "illuminator of royal patents," but was merely employed on them from his excellence as a limner, and this probably led to his obtaining admission into the college. How readily some men can torture facts to suit their own views!

APPENDIX TO INTRODUCTION.

No. I.

SECOND DIVISION.

NOVEMBER 12, 1836.

PURSUERS' PROOF,

IN CAUSA,

THE OFFICERS OF STATE

AGAINST

HUMPHREYS OR ALEXANDER,

CALLING HIMSELF EARL OF STIRLING.

"*Edinburgh, July* 4, 1835.—The Lords, on report of Lord Cockburn, Ordinary, having considered the state of the process, and heard counsel on the question as to the mode of procedure referred to in the Lord Ordinary's Interlocutor, are of opinion, that if, after hearing parties, any farther proof in this cause shall be allowed, such proof ought to be taken on commission; and remit to the Lord Ordinary to proceed accordingly.

(Signed) "D. BOYLE, *I.P.D.*"

"8*th July*, 1835.—The Lord Ordinary allows to both parties a proof of their respective averments as contained in the Record: Grants diligence, at the instance of both parties, for citing witnesses and havers accordingly: Remits to Mr Handyside, Advocate, to take the Depositions, and receive the exhibits of such of the witnesses and havers as may be examined in this country; and grants commission to him accordingly for that purpose, if necessary: Farther, grants Commission to any of his Majesty's Justices of the Peace in Ireland to take the Depositions, and receive the exhibits of such of the witnesses and havers as may be examined in Ireland,—to be reported on or before the third sederunt day in November next; and dispenses with the Minute-book.

(Signed) "H. COCKBURN."

"1*st June*, 1836.—The Lord Ordinary, of consent, prorogates the time for the Defender reporting the diligence and commission formerly granted to him for fourteen days; also grants diligence, at the pursuers' and defenders'

instance, for citing such witnesses and havers as reside within the counties of Warwick and Worcester; and grants Commission to any of his Majesty's Justices of the Peace for said counties to take the depositions of said witnesses and havers, and receive their exhibits; and dispenses with the Minute-book,—to be reported within fourteen days. Also prorogates the time for the pursuers reporting the diligence and commission now and formerly granted to them for fourteen days, after the expiry of said fourteen days prorogated to the defender.

(Signed) "H. COCKBURN."

"*6th July*, 1836.—The Lord Ordinary prorogates the time for the pursuers reporting the diligence formerly granted to them till the third sederunt day in November next.

(Signed) "H. COCKBURN."

PURSUERS' PROOF,

IN THE

ACTION of REDUCTION IMPROBATION, at the instance of THE OFFICERS OF STATE, *Pursuers;*

AGAINST

ALEXANDER HUMPHREYS or ALEXANDER, calling himself EARL OF STIRLING; and THOMAS CHRISTOPHER BANKS, *Defenders.*

At Edinburgh, the 1st day of June, 1836, in the Action of Reduction and Improbation, at the instance of the Officers of State, against Alexander Humphreys or Alexander, and Thomas Christopher Banks, there was produced an interlocutor by Lord Cockburn, Ordinary, allowing to both parties a proof of their respective averments, as contained in the Record, and granting diligence, for citing witnesses and havers, and remitting to Mr Robert Handyside, advocate, to take the depositions, and receive the exhibits of such of the witnesses and havers, as may be examined in this country, which he accepted of; and having chosen James Keddie, writer in Edinburgh, to be his clerk, to whom he administered the oath *de fideli*,

Appeared Mr Cosmo Innes, advocate, and Mr Roderick MacKenzie, W.S. counsel and agent for the pursuers; and Mr Adam Anderson, advocate, and Mr Ephraim Lockhart, W.S. counsel and agent for the defenders.

Compeared ANDREW FYFE, M.D. Fellow of the Royal College of Surgeons, Edinburgh, a witness cited for the pursuers; who, being solemnly sworn, purged of partial counsel, examined and interrogated, depones, That he is, and has been

for about sixteen years, a lecturer on chemistry in Edinburgh; that he has turned his attention a good deal to practical chemistry, and has taught a class of practical chemistry for about the same period. Being requested to examine one of the documents contained in No. 25 of process, and bearing to be an affidavit of Henry Hovenden, and to be sworn on the 16th day of July, 1723, and which is marked by the deponent, commissioner, and clerk, as relative hereto, depones, that he has seen the document before in the hands of the clerk of process, and that it appears to him that some parts of the paper of that document have been injured, and the texture destroyed, by the application of some substance, probably an acid; and adds, that the hardness which he observes on some parts of the paper may have been occasioned by the cautious application of heat after the use of the acid, if such substance had been applied; and adds farther, that the application of chlorine or chloride of lime would produce a similar change on the texture of the paper, as the acid would. Depones, that he observes that the top and bottom margins, and part of the side margins, have not been subjected to the action of the same substance which has injured the rest. Depones, that the ink is of a dusky colour, and of an appearance like what he would expect in writing upon paper previously affected with acid, and that the paper is penetrated by the ink in a manner such as would have been produced by repeated washings with water or diluted acid. Depones, that it is possible that there may have been writing on the leaf of paper in question, previous to its having been subjected to the action of the acid or other substances, which have injured its texture, and that such writing may have been discharged by the application of those substances. Depones, that the acid, or other substance by which the document has been injured, must have been applied before the present writing of the document was written, otherwise the ink must have been more injured by that application than it appears to be. Depones, that there are deeper stains on some parts of the paper than on others; but that he cannot say that he sees any appearance of the acid, or other substances, being applied in lines. Depones, that the appearance of the paper cannot be accounted for by damp, otherwise it would shew an appearance of the action of damp all over, and the texture of it would not be injured so much more in one place than another. Depones, that the application of the same substances to both sides of the paper, may account for the greater decay of one

part of the paper than of the rest, and that the greatest decay is at the top of the paper, where he sees on the one side the commencement of the affidavit, and on the other the notary's docquet. Depones, that the certificate, signed Thomas Conyers, is also on the back of the paper, and that it is not so much decayed at that part. Depones, that the paper of the top margin, on which are three stamps, and the paper of the bottom margin, on which is the subscription of J. Pocklington, are quite entire, and apparently not touched by the substances which have injured the rest of the paper. Depones, that by the application of chemical re-agents, indications may be given on the paper, by which it may be ascertained whether there had been previously any writing; but the absence of these indications would not necessarily prove that there had been no writing. Depones, that he has at present in his possession such re-agents, and that he is ready to apply them, if permitted; and that they will not destroy the texture of the paper, or efface the present writing. Whereupon the clerk to the process declared, that he could not permit this without the authority of the Court; and being interrogated, Whether, in his opinion, the paper has been tampered with, and the writing on it altered or deleted? Depones, that he cannot answer that question farther than he has already done; but adds, that the appearance of the paper is such, that the injury can have hardly happened by accident. *Cross-examined for the defenders*, and interrogated, Whether he has been much in the habit of examining old manuscripts? Depones, that he has not been much in the habit of examining them, but that he has done so occasionally. All which he declares to be truth. Fifteen words delete before signing.

(Signed) AND. FYFE.
R. HANDYSIDE, *Comr.*
JAMES KEDDIE, *Clk.*

At Edinburgh the 4th day of June, 1836.

Appeared parties by their counsel and agents above named.

Compeared WILLIAM GREGORY, M.D. Fellow of the Royal College of Physicians, Edinburgh, a witness cited for the pursuers; who, being solemnly sworn, purged of partial counsel, examined and interrogated, depones, That he is, and has been seven years, a lecturer on chemistry in Edinburgh.

Depones, that, in his experience as a chemist, he has very frequently had occasion to observe the operation of acids and other chemical agents upon paper, in destroying or partially injuring its texture, changing its colour, &c. Being shewn the document contained in No. 25 of process, and referred to by the last witness, and which is marked by the deponent as relative hereto, depones, that, to the best of his judgment, the texture of the paper has been injured by a chemical agent, and not by damp. Depones, that he considers the top margin, on which are the three stamps, the bottom margin, on which there are two signatures, and the lower part of the side margin, to be uninjured, and not to have been subjected to the agency of the substance which has injured the body of the paper. Depones, that he perceives the upper part of the side margin bears writing on its back. Depones, that, to the best of his belief, the injury to the paper could not have arisen from accident. Depones, that he accounts for the greater decay of the upper part of the paper, by supposing that the destructive agent has been applied to both sides, and that the injury to the top of the margin may be accounted for by the destructive agent having been applied to the writing at the top of the reverse of the leaf where the writing is partly on the back of the said margin. Depones, that from what he has seen, and from every experiment he has made, he is quite satisfied that the writing of the body of the deed, as it now stands, and of the docquet on the top of the reverse, must have been written subsequently to the application of the destructive agent, though before the paper had reached its present state of decay. Depones, that, in his judgment, the document is not one which can be considered trust-worthy, as proving the facts set forth in it, and of the date it bears. Depones, that he has frequently seen writing completely discharged from paper by the application of an acid; and that he has done so himself where the writing was of six years' standing; and adds, that he has found writing of a few years' standing more difficult to discharge than what has been recently written. Depones, that he conceives it quite possible that writing previously existing upon the paper in question, and occupying the same space with the present writing, may have been discharged so as to make way for what is written both on the front of the leaf, and on the top of the reverse, without interfering with the signatures. *Cross-examined for the defenders*, and interrogated, Whether he has been much in the habit of examining old manuscripts? Depones, that

he has not. All which he declares to be truth. Five words delete before signing. (Signed) WILLIAM GREGORY.
R. HANDYSIDE, *Comr.*
JAMES KEDDIE, *Clk.*

Compeared DONALD GREGORY, Esq. Joint-Secretary to the Society of Antiquaries of Scotland, a witness cited for the pursuers; who being solemnly sworn, purged of partial counsel, examined and interrogated, depones, that he has been in the habit of examining old manuscripts for the last fourteen years, and has turned his attention very much to the examination of manuscripts, both in the public records and in private repositories, in the course of his historical and genealogical inquiries. Depones, that he is acquainted with the distinguishing character of hand-writing during the last 400 years. Being shewn the document referred to in the deposition of the last witness, and which is marked by the deponent as relative hereto, he observes, that it bears date in 1723, and declares, that in so far as his experience goes, he has no hesitation in stating, that the character of the writing in the body of the document is of a considerably later period than the date above specified; and the chief grounds of his opinion, are the want of the contractions which, in deeds of that period, are usually met with in legal hand-writing, and the peculiar shape of the letter e. Depones, that the general style of the document, as well as the character of the hand-writing, and farther, the mode in which the date '7th December 1639' is written, lead him to the opinion that the writing is of the early part of the reign of George III. Depones, that the signature 'Hen. Hovenden,' appears to be that of an old man in the year 1723, judging from the character of the hand-writing, and corresponds with the age mentioned in the commencement of the affidavit; and the signature of 'J. Pocklington,' appears to be that of a younger man, and in its character corresponds with the date of the affidavit. Depones, that he perceives certain words contained in the docquet on the back of the deed, which are of a different character from the rest of the docquet, and correspond with the date 1723, and he points out these words, as '— neble. Jno. Pocklington, Esq. one of ye. Baron. (torn) Excheqr. in Ireld.' Depones, that the signature to the docquet appears to be of the period corresponding with the date of the docquet, and of a considerably earlier period than the writing of the docquet itself, with the exception of the words above quoted:

And being shewn the deposition of Sara Lyner, dated 17th January, 1722, and contained in number 25 of process, and which is marked by the deponent, commissioner, and clerk as relative hereto, depones, that the character of the writing is of the period which it professes to be, and of a totally different character from the affidavit of Hovenden. Depones, that in the deponent's opinion, the document first referred to, bearing to be the affidavit of Hovenden, is not a genuine document of the date it professes to be, with the exception of the signatures, and the few words above quoted, contained in the docquet appended thereto. Depones, that the decay of the paper of the document above referred to, has not, in his opinion, proceeded from the effects of damp; and that, if it had proceeded from this cause, it would have borne the appearance of a document which he now produces, and which is marked by the deponent, commissioner, and clerk, as relative hereto. Depones, that he has never perceived the appearance presented in the above-mentioned affidavit of Hovenden, of the running of the ink, in any instance where the paper has been exposed to damp, and that the writing remains quite sharp notwithstanding the damp. *Cross-examined*, and required to examine the signature, Thomas Merefield, which he has already deponed to be a genuine signature, and to say, whether the letter e is of the character of writing of the period 1723? Depones, that it is not of the general character of that period, but of a character which then had begun to be introduced, and which is the same with the writing of that letter in the present time. And being required to examine the certificate, bearing to be signed 'Thos. Conyers,' underneath the notary's docquet, and interrogated, whether it is of the hand-writing of the period 1723? Depones, that it is of that period, and contains the letter e as usually written at that period. Depones, that the paper of the document produced by him is of a thinner texture than that of the paper on which the affidavit is written, and that it would, on this account, become more easily affected by damp; but that the latter, if exposed to damp, would have also become soft, and would not have presented the hard appearance of Hovenden's affidavit. *Re-examined* and interrogated, Whether the docquet signed by 'Thos. Conyers,' is written by a person taught to write at the date it bears? Depones, that in his belief it was written by Thomas Conyers at that date, and that he must have been a younger man than Henry Hovenden, and taught to write at a later date. Depones, that he believes that the words contained

in the docquet, and which have been quoted above, as differing in character from the rest of the docquet are the writing of Merefield, who signs the docquet. All which is truth, &c. Sixteen words delete before signing.

(Signed) DONALD GREGORY.
R. HANDYSIDE, *Comr.*
JAMES KEDDIE, *Clk.*

What is contained in this and the 21 preceding pages, is the report of the proof allowed by the interlocutor referred to in the first page hereof.

(Signed) R. HANDYSIDE, *Comr.*
JAMES KEDDIE, *Clk.*

At Newtonards, in the county of Down, the 24th day of October, 1836 :— Which day there was produced to me, Richard Bailie Blackiston, Esq. one of his Majesty's Justices of the Peace for the county of Down, in Ireland, an act and commission, dated the 26th day of November, 1835, with continuations and prorogations thereof, dated 10th February, and 1st day of June last, granted by Lord Cockburn, one of the Judges of the Court of Session in Scotland, in an Action of Reduction and Improbation, depending in that Court, in which the Officers of State for Scotland are *pursuers*, and Alexander Humphreys or Alexander, calling himself Earl of Stirling, and others, are *defenders*. Of which Commission I accepted, and made choice of William Loughe of Comber, in the said county of Down, to be my clerk, to whom I administered the oath *de fideli*, as use is.

Thereafter appeared Roderick MacKenzie, W.S. as agent for the pursuers, and Ephraim Lockhart, W.S. as agent for the defender.

Thereafter compeared The Reverend MARK CASSIDY, Perpetual Curate of and residing in Newtonards, and one of his Majesty's Justices of the Peace for the said county, aged 59 years and upwards; who being solemnly sworn, purged of malice and partial counsel, and examined and interrogated by and in the presence of the said Commissioner, depones, that there is still in existence, in Newtonards, an old building now converted into a Sessions-house, which he has heard was formerly used as a place of worship, but has not been used as such, so far as the deponent knows, for the last hundred years and upwards; and was known by the name of the Old Church : That there was in connection with this place, and immediately adjacent to it, a building used as a private chapel, and said to have been originally built or repaired by the family of Montgomerys, and afterwards used as a chapel by the families of Colvill and Stewarts, who became after them proprietors of

Newtown Estate: That the Old Church formed the vestibule of the Chapel: That the deponent has resided in Newtonards as the parish minister constantly for the last 27 years: That until the year 1817, he performed public worship in the said chapel, when a parish church was built in another part of Newtonards; and the said chapel was afterwards taken down, and the said vestibule converted into a Sessions-house: That in the chapel there were no grave-stones or inscriptions, so far as the deponent recollects, relative to persons buried there: That in particular, there were no grave-stones bearing the names of the last Countess of Mount Alexander, or of a John Alexander: That there were tombs and grave-stones in the vestibule or Old Church: That he has had frequent occasions to examine these tombs and grave-stones; but never saw, that he recollects, any grave-stones or monuments of the said countess, or any person of the name of Alexander; and being shewn the inscription alleged to be a copy of that on the tomb-stone of John Alexander, is quite positive that no grave-stone in the vestibule or chapel bore any such inscription: That in the vestibule, at the earliest period he recollects of, there was no appearance of pavement or flagging, except an occasional grave-stone; and indeed the place had no appearance of ever having been regularly flagged: That he knows a woman of the name of Margaret M'Blain, widow of James M'Blain, in Newtonards, and also knew her husband: That while he knew him, the said James M'Blain was not extensively employed in the line of a mason, and an undertaker of building generally, having a considerable number of workmen under him: That he was merely a good common workman: That Margaret M'Blain is a woman of such general character, that she could not in his opinion be believed on oath where her interest was affected; and if she appeared before him as a magistrate, from her general character, he would not be disposed to give her credit on oath where her interest was in opposition. *Interrogated for the defender*, depones, that he is positive there was not, in the Old Chapel, any grave-stone bearing the name of the Countess of Mount Alexander, inscribed upon it, visible to the naked eye; and he has no recollection of any grave-stone, or part of a grave-stone, with the name John Alexander upon it. Depones, that the deponent does not know that Margaret M'Blain, before mentioned, has ever had a conviction against her in any Court for any offence, and does not know any thing in particular to the prejudice of her character, except the general

reputation of the place. Being interrogated, Whether the said Margaret M'Blain received parochial relief in this parish? Depones, that he does not know, of his own knowledge, whether she is in the receipt of such relief; but rather supposes that she is. All which is truth, as the deponent shall answer to God. Twenty-one words delete before signing.

(Signed) MARK CASSIDY.
RICH. B. BLACKISTON, *Comr.*
WM. LOUGHE, *Clk.*

All which is reported by
(Signed) RICH. B. BLACKISTON, *Comr.*
WM. LOUGHE, *Clk.*

At Newtonards, in the county of Down, the 24th day of October, 1836, which day there was produced to me, the Reverend Mark Cassidy, one of his Majesty's Justices of the Peace for the county of Down, in Ireland, an act and commission, dated the 26th day of November, 1835, with continuations and prorogations thereof, dated 10th February and 1st day of June last, granted by Lord Cockburn, one of the Judges of the Court of Session in Scotland, in an action of Reduction and Improbation depending in that Court, in which the Officers of State for Scotland are pursuers, and Alexander Humphreys or Alexander, calling himself Earl of Stirling, and others, are defenders; of which commission I accepted, and made choice of William Loughe of Comber, in the said county of Down, to be my clerk, to whom I administered the oath *de fideli*, as use is.

Thereafter appeared Roderick MacKenzie, W.S. agent for the pursuers; and
Ephraim Lockhart, W.S. agent for the defender.

Thereafter compeared MARGARET M'CULLY, of Newtonards, widow of the deceased John M'Cully, bailiff to Lord Londonderry, aged 71 years and upwards, being born on the 22d of October, 1765; who being solemnly sworn, purged of malice and partial counsel, and examined and interrogated, depones, that she recollects the funeral of the last Countess of Mount Alexander, and of the mourners attending the funeral stopping, going and returning from Donaghadee, at her grandmother's public-house, adjoining the town of Newtonards: That she does not know, of her own knowledge, the identical spot where her remains were interred; but knows that it was either in the Old Church or Chapel in Newtonards. Depones, that she heard the now deceased Robert Orram, stone-cutter, tell her grandmother that the Countess was buried in a vault under the altar of the Chapel; and what has impressed the circumstance on her memory was, Orram

stating to her grandmother, that the masons working with him had entered the vault, and wished to take from it a considerable quantity of the ornaments of the coffin, which he had prevented, and made them restore. Has frequently been in the habit of going to the Chapel and Old Church, which was used as a vestibule to the Chapel. Depones, that the Old Church was never flagged to her knowledge: That she never saw any tomb-stone relative to the last Countess of Mount Alexander, or a John Alexander; and being shewn a copy of the alleged inscription on John Alexander's tomb, depones, that she never saw any such tomb-stone bearing such inscription; and is certain, if any such existed, she must have seen it. Depones, that she is herself a Montgomery, and curious about the family history; and is certain that a stone of such size, as to bear so long an inscription relating to any member of the Alexander family, would have attracted her notice. Depones, that she has resided all her life in Newtonards. *Interrogated for the defender*, depones, that the floor of the Old Chapel was partly flagged and and partly boarded, — being flagged in the aisle to the communion table with ordinary flagging, but no grave-stones. All which is truth, as the deponent shall answer to God. Eight words delete before signing.

(Signed) M. M'Cully.
Mark Cassidy.
Wm. Loughe.

Thereafter compeared Samuel Corry of Newtonards, clerk of the Mendicity Society of that place; who, being solemnly sworn, &c. *ut antea*, depones, that in the capacity of clerk and superintendent of the Mendicity Society, he knows that Margaret M'Blain, widow of James M'Blain, mason, receives aid from the said society as a pauper, and has done so for a considerable time: That some of her daughters live with her: That she bears a very indifferent character; and depones, that as a juryman he would not believe her upon oath, if her interest was affected by it: That he knows that upon one occasion, she swore to a fact upon a coroner's inquest, of which he was a juryman, which was contradicted by two respectable witnesses. *Interrogated for the defender*, Whether, on the occasion deponed to, the coroner passed any censure or remark on what she swore to? Depones, that he did not, nor did any of the jury do so: that it was the deponent's private opinion

that she gave false evidence. All which is truth, as he shall answer to God. Four words delete before signing.

(Signed) SAMUEL CORRY.
MARK CASSIDY.
WM. LOUGHE, *Clk.*

Thereafter compeared JAMES DALZIEL, stone-cutter of Newtonards; aged 46 years and upwards, who, being solemnly sworn *ut antea*, depones, that some time in the year 1830, he was employed by Charles Campbell, in flagging the old church of Newtonards, when converted into a sessions-house: that in the old church there was no flagging; but a few scattered tomb-stones lay on the floor: that on that occasion, several tomb-stones were sunk in the flooring, and covered with flagging; and that although he saw the whole of the tomb-stones, to the best of his recollection, he saw none bearing the name of John Alexander; and being shewn a copy of the alleged inscription on the tomb of John Alexander, depones, that he never saw any such stone, which, he thinks, would not have escaped him if it had been there; and no tomb-stones were chisselled and used as flagging. All which is truth, as he shall answer to God. One word delete before signing.

(Signed) JAMES DALZIEL.
MARK CASSIDY.
WM. LOUGHE.

Thereafter compeared DAVID DALZIEL, stone-cutter of Newtonards, aged 35 years and upwards; who, being solemnly sworn *ut antea*, depones, that some time, four or five years ago, he was employed by his brother James Dalziel, in flagging the sessions-house of Newtonards, then the old church: that in the old church, there was no flagging; but a few scattered tomb-stones lay on the floor: That the tomb-stones on the floor were sunk, and covered with new flagging. Depones, that so far as he saw, none of the tomb-stones were dressed up and used as flagging, being generally broken and unfit for the purpose: That he never saw any tomb-stone bearing the name of John Alexander, or part of a tomb-stone having that name inscribed on it, used in any part of the flagging; and the deponent wrought the new flagging. *Interrogated for the defender*, depones, that he performed no work respecting the pulling down and raising the flags of the old chapel: That all that was done before he was employed in

flagging the sessions-house. All which is truth, as he shall answer to God. One word delete before signing,

(Signed) DAVID DALZIEL.
MARK CASSIDY, *Comr.*
WM. LOUGHE.

Thereafter compeared CHARLES CAMPBELL, architect, of Newtonards, who refused to be sworn.

(Signed) MARK CASSIDY, *Comr.*
WM. LOUGHE, *Clk.*

All which is reported by

(Signed) MARK CASSIDY, *Comr.*
WM. LOUGHE, *Clk.*

At Rockport, in the county of Down, the 24th day of October, 1836: — Which day there was produced to me, Arthur Forbes, Esq. one of his Majesty's Justices of the Peace for the county of Down, in Ireland, an act and commission, dated the 26th day of November, 1835, with continuation and prorogations, granted by Lord Cockburn, one of the Judges of the Court of Session in Scotland, in an action of reduction and Improbation depending in that Court, in which the Officers of State for Scotland are pursuers, and Alexander Humphreys or Alexander, calling himself Earl of Stirling, and others, are defenders. Of which Commission I accepted, and made choice of Alexander Montgomery of Belmont, in the said county of Down, to be my clerk, to whom I administered the oath *de fideli*, as use is.

Thereafter appeared Roderick MacKenzie, W.S. as agent for the pursuers, and Ephraim Lockhart, W.S. as agent for the defender.

Thereafter compeared JOHN TURNLY, of Rockport, in the county of Down, Esq. one of his Majesty's Justices of the Peace for said county of Down, aged 71 years and upwards; who, being solemnly sworn, purged of malice and partial counsel, depones, That he knows that there were in Newtonards an old building called the Old Church, and a building adjoining to it called the Chapel; the Old Church being a vestibule or entrance to the Chapel or New Church. Depones, that he was born in Newtonards, and lived there till he was about 30 years of age, and was in the constant habit of attending divine service in the Chapel: That he never saw a gravestone or inscription within the Chapel, but thinks he has heard that persons have been buried there: there were a number of tombstones and gravestones in the Old Church, which never appeared to have been flagged, and was on that

account very difficult to walk along: Remembers the Old Church for 50 years, and knows that within that period it was not flagged. The New Church or Chapel appeared always within his recollection flagged, and does not remember that it was reflagged within the last 50 years. Being shewn a copy of the alleged inscription on the tombstone of John Alexander, depones, that he never saw any tombstone, to the best of his recollection, bearing such an inscription, though he has an indistinct recollection of some inscription, either in the Old Church or Chapel, regarding the Mount Alexander family; but is not positive. All which is truth, as he shall answer to God. Seven words delete before signing.

(Signed) JOHN TURNLY.
ARTHUR FORBES, *Comr.*
ALEX. MONTGOMERY, *Clk.*

Reported by (Signed) ARTHUR FORBES, *Comr.*
ALEX. MONTGOMERY, *Clk.*

Register of Allowances of Apprysings, vol. 3.

EXTRACT APPRISING ROBERT KEITH, W.S. *against* JANET ALEXANDER, lawfully charged to enter heir to Gilbert Grahame of Gartmuir, her uncle.

xiiij July 1646.

Compeirit GEORGE GORDONE, messr. and in name and behalff of Robert Keithe, wreitter to his Ma/teis Signet, and gave in ye apprysing led and deducit at his instance againes Janet Alexr. vnder designit, desyring the samyne to be allowit and recordit qlkis allovit and recordit in maner following:— The Lords of Counsall has seine and considerit ye. process of appryssing within written, and findis ye. samyne ordourlie proceidit: And yairfoir ordanes L/res to be direct to comand and charge James Erle of Callender, Lord Almond, &c. to infeft and seas Robert Keithe, wreitter to his Ma/teis Signet, his aires and assis. herellie, In all and haill ye. towne and landis of Saltcoitties, with houss. biggings, pairties, pendicles, and pertinentis thairof, Lyand w^t^in the regalitie of Falkirk, and Srefdom of Stirling. Togidder with the right of all takkis of teyndes of the saidis landis, with all a/rentis, reversiones, alsweill c/ditionall as legall, and legall upon legall discharges, dispo/nes, contractis, bandis, obliganes, charto^r^s, Infefty, wyr. richtis, tittillies, and securitees within wreitten pertenut of Befoir to *Jonet Alexr. sister, doucht and air*, and lawllie.

chairget to enter air to umqlle. Gilbert Grahame of Gartmuir, hir vncle ind apprysit fra her as sister dochter, and lawllie. chairgit to enter air foirsaid to her said umqllie. vncle and fra Jon Alexr. of Gartmuir, heir Fayr. as tutor, gyder, and admr. to hir of ye. law: And alsr. fra her tutor and curators gif schoe any hes for yair Enteresse, and fra all wtheris haifand, or pu/dand to haif, entres in forme and maner as is within c/teinit, at the instance of ye. said Robert Keithe ass'ney within namet, In satisfaction to him off the sowme of Tua thowsand nyne hundredthe thiescoir thrie pundis sax schillings aucht pennis vsuall money of yis realme of prinll. bygane a/rentis, and liquidat expenss$^{r.}$ *and liquidat expenss*$^{r.}$ rexive conteinit in ye decretes of rgratioune obliganes. ass'natione, translatioune, and L/res. within mentionat, Togidder with the sowme of J$^{c.}$ xlviij$^{li.}$ iij$^{s.}$ iiij$^{d.}$ moe. foirsaid of S/reffie To be halden of the said James Erle of Callender, Lord Almond, &c, his airis and ass/is. or ony wyrs immediat lawll. superiors thairof, Siclyk and in ye samyne forme and maner of holding, and alsr. freille in all respectis as the said Wmqll. Gilbert Grahame, hir vncle, held ye. samyne himselff befoir his deceis, or as the said Jonet Alexr. his sister dochter, holdis. or may hold ye. samen hir selff, gif schoe war enterit air to hir said Wmqll. vncle befoir yis appryssing efter ye. forme and tenor tenor thereof, And act of Parliament made anent appryssing of landis and wyrs for debtis in all poyntis, Sic subscribitur, Cranstoun Riddell, J. Craighall. Qlk appryssing abooue mentionat wes led and deducit within the Tollboothe or Session hous of the Burgh of Edr. vpon the twantie day off May last by past 1645 years. Befoir George Gordown, Messr. and Judge in ye. said appryssing, Quha wpone the xviij day of Aprill, the year of God foirsaid past to zat ludging and dwelling-hous, lyand in his Ma/teies Palace of Halyruid-hous, within the bak clois of ye. said Palace, quhair the said Jonet Alexr. hade hir actuall residence for ye. time with Dame Countess of Stirling, her guidame; and yair within ye. said ludging and dwelling hous, and within the haill Chalmeris houss and biggingis yrof, quhairin he could get entres, he diligentlie searchit and soght ye. mo/l. guids and geir poyndabill perteining to hir, But could get nane, this he did befoir yir witnesss. Johne Henrie and Johne Houstoune, indwellers in Edr. And siclyke vpone the xxviij and last dayes rexive of the said monethe of Apryll, Andrew Burne ane wyer Messr. lykwayes c/teint in the said Appryssing past to the ground of the saides towne and landes of Saltcottis,

with the pertinentis yairof. And thairvpon, and within the houssⁿ· and biggingis yairof, quhairin he could get entres, he diligentlie seachit and socht the moveabill guidis and geir being yr. vpone and within ye. samyne, pteining to the said Jonet Alexr. Bot could get nane. Thairfoir vpon ye. said ttwantie aught day of Apryll he lawllie. denwcit the said towne and landis of Saltcoitts wt. ye. pertinentis yr.of above-wreitten, with ye. takis of teyndis of ye. samyne a/rentis, reversiones, and wyrs, rights, rexue, aboove mentionat, oppenlie vpone the ground and groundis thairof, and at ye. m/cat croce of Falkirk, heid Burghe of ye. Regalitie, quhair denunciationes within ye. said Regalitie, ar in vse to be done and execuit, and also at the m/cat croce of Stirling, heid burghe of the S/refdome yairof, within the qlk the samyne landis and wyrs foirs-ds lyes rexue, and successiue. Lykas yen vpone the ground of the saidis landis, and at the saidis mercat croces of Falkirk and Stirling, rexue and successiue, the said Messenger openlie warnit the said Jonet Alexr. and her tutors and curators, gif schoe ony hes for thair entrests, and all wtheris haif and or pudand to haif entres. Befoir thir witness rexiue, vizt. at the ground of the saidis landis vpone the said xxviij day of April, James Kincaid and Williame Gavin, abboistgrange, and Robert M'Lellane, ssruitor to David Bruce in Saltcoittes. And at the mercat croce of Falkirk, upone the samen xxviij day of Apryll, John Burne, Alexr. Wat, Duncane Ker, and Wa. Muirheid, merchandes thair, and at the said m/cat croce of Stirling vpone ye. said last day of Apryll, John Rankyn, of Southhous of Balmulzer, John Robenie, Notar in Stirling, and James Seatone, Notar and Messr. thair. And also vpone the third day of ye. said monethe of May, ye. said George Gordoune, Messr. lawlii. warnit the said Jonet Alexr. and the said Johne Alexr. hir father, hir tutor of law, for his entres at the said Countes of Stirling, hir dwelling-place foirsd. Because he could not apprehend yame personallie, and immediatlie thairefter he passed to the mercat croces of Edr. and ca/ngat, rex/ue, and successive, and thair at aither of the saids mercat croces be opene proclama/ne he lawlie. warnit ye. said, and hir saidis tutoris and curators gif schoe any hes for thair interests. and all wtheris, haif and or pudand to haif entres, be leaving copies at all ye. foirnamet places successive. Befoir yir witness, the saidis Johne Houstoune, John Hendrie, and Edmond Reidpithe, Messrs. To compeir day and place aboue speit. To the effect aboue mentionat. To the qlk

appryssing, Mr Alexr. Forbes, wreitter to his Ma/teis Signet, Is Clerk. — Extracted from the records in his Majesties General Register House, upon this and the seven preceding pages of stamped paper, by me, one of the keepers of these records, having commission for that effect from the Lord Clerk Register.

(Signed) WILLM. ROBERTSON.

No. II.

SECOND DIVISION.

DECEMBER 7, 1836.

DEFENDER'S PRODUCTIONS,

IN CAUSA,

THE OFFICERS OF STATE

AGAINST

ALEXANDER, EARL OF STIRLING.

PROCEEDINGS in the Service of ALEXANDER, EARL OF STIRLING, as Heir in General of WILLIAM, EARL OF STIRLING.

Canongate, 11th October, 1830.

In pursuance of the brieve, directed forth of his Majesty's Chancery to this Court, dated the 21st, and executed upon the 22d days of September last, for serving of Alexander, Earl of Stirling, Viscount of Stirling and Canada, Lord Alexander of Tullibodie, &c. only surviving son of the deceased Hannah Alexander, otherwise Humphrys, who was wife of William Humphrys of Birmingham and the Larches, both in the county of Warwick, Esquire, and sister-german, and last surviving heir-female of the deceased Benjamin Alexander of Basinghall Street, London, great-great-grandson, and last heir-male of the body of the deceased William, the first Earl of Stirling, as lawful and nearest heir-in-general to the

said deceased William, the first Earl of Stirling, his great-great-great grandfather,—Appeared the claimant, by his agent, who for him produced a claim of service, signed by Ephraim Lockhart, writer to the signet, and craved that the points of the brieve and claim might be remitted to the following persons of Inquest, viz. :—

Alexander Monypenny,
James Dalgliesh, and
William Fraser, } Esquires, writers to the Signet.
John M'Cliesh of Maryfield, Esq.
Philip Crow,
Archibald Douglas,
John Mason, and
Robert Oliphant, } writers in Edinburgh.
James Simpson, writer in Leith.
James Gardner, apothecary in Edinburgh.
Walter Marshall, painter there.
Robert Latta, collector of customs there.
Thomas Workman, merchant, Canongate.
John Sutherland, residing there, and
Alexander Brodie, merchant, Leith.

The said Inquest being all solemnly sworn, made choice of the said Alexander Monypenny, Esquire, to be their Chancellor; and having considered the aforesaid brieve, and execution thereof, together with the claim of service, writs produced, read and explained to the Jury, they, in respect thereof, and that no person appeared to object thereto, served and cognosced the claimant, Alexander, Earl of Stirling, Viscount of Stirling and Canada, Lord Alexander of Tullibodie, &c. only surviving son of the deceased Hannah Alexander, otherwise Humphrys, who was wife of William Humphrys of Birmingham and the Larches, both in the county of Warwick, Esquire, and sister-german, and last surviving heir-female of the deceased Benjamin Alexander of Basinghall Street, London, great-great grandson and last heir-male of the body of the said deceased William, Earl of Stirling, lawful and nearest heir-in-general to the said deceased William, the first Earl of Stirling, his great-great-great grandfather. And to this verdict the Bailies interpone their authority. Whereupon instruments were taken in the clerk's hands.

(Signed) ALEX. MONYPENNY, *Ch^r.*
JN°. ROBERTSON, *B.*

The points of the brieve, and claim, proved by written evidence, read, produced, and explained to the Jury, conform to inventory thereof, signed by the Chancellor, and put up with the claim of service as part of the record.

(Signed) Jn°. Robertson, *B.*

Documents produced, *per* Inventory, in the Service of Alexander, Earl of Stirling, as Heir in general of William, Earl of Stirling.

Douglas's Peerage.

Sir William Alexander of Menstrie was raised to the dignity of Earl of Stirling, Viscount of Canada, and Lord Alexander of Tullibodie, by patent, dated at Dalkeith, 14th June, 1633. He died at London in February, 1640, and was buried at Stirling on the 12th of April following. His Lordship married Janet, daughter and co-heiress of Sir William Erskine, Knight, Parson of Campsie, Commendator of the Bishoprick of Glasgow, by whom he had issue,

1. *William*, Viscount Canada.

2. Hon. Sir *Anthony* Alexander, Master of the King's Works in Scotland, who married a daughter of Sir Henry Wardlaw of Pitreavie; and dying without issue, at London, in August (17th September) 1637, was buried at Stirling.

3. *Henry*, third Earl of Stirling.

4. Hon. *John* Alexander, who married a daughter of Sir John (Robert) Graham of Gartmore.

5. Hon. *Charles* Alexander, who had a charter to Charles Alexander, son of the deceased William, Earl of Stirling, of the lands of Tullibodie, 27th June, 1642; he left a son, Charles, who died without issue.

6. Hon. *Ludovick* Alexander, died without issue.

7. Hon. *James* Alexander. In the Edinburgh Register, James Alexander, son of the deceased William, Earl of Stirling, and Grisel Hay, had a daughter, Margaret, 23d June, 1669.

1. Lady *Jean*, married at Kensington, 20th July, 1620, to Hugh, Viscount Montgomery of Great Ards, in the county

of Down in Ireland; their son, Hugh, was created Earl of Mount Alexander, (a title in honour of his mother's surname,) in 1661.

2. Lady Mary.

WILLIAM, Viscount of Canada, and Lord Alexander, the eldest son, was appointed an extraordinary Lord of Session, in room of his father, 27th January, 1635. He was a young nobleman of great expectations; went to America; spent the greatest part of his fortune in establishing a colony on the river St Lawrence, where he suffered great hardships, and dying of the effects thereof, at London, in March (18th May) 1638, was buried at Stirling. He married Lady Margaret Douglas, eldest daughter of William, first Marquis of Douglas, and by her had a son,

William, second Earl of Stirling, and three daughters.

WILLIAM, second Earl of Stirling, the only son, succeeded his grandfather, in February, 1640, but did not enjoy the title more than three months, when he died, and was succeeded by his uncle,

HENRY, third Earl of Stirling.

EXTRACTS from the Registers of Baptisms and Burials of the Parish of Binfield.

EXTRACT from the Register for Burials of the Parish of St Anne, Westminster.

EXTRACT PROCEEDINGS, in the Service of William Alexander to the deceased Henry, Earl of Stirling.

1664.

The son of Henry Alexander, Earle of Stearling, born November the 7th.

Henry, the son of the Erell of Sterling, baptized November 14.

1665.

William, son of Earl of Stearling, baptized January the 9th.

1665.

William, the second son of the Earl of Sterling, born December the 28th, 1665.

1673.

Robert, the son of the Right Honourable Henry Alexander, Erleof Stearling, was baptized September the 9th.

1677.

Peter, the son of the Right Honourable Henry Alexander, Earle of Starling, was baptized May the 10th.

1679.

Peter, the sonn of the Right Honourable Henry Alexander, Earle of Starling, baptized March the 23.

I certify that the preceding Extracts from the Register of Binfield Church, in the diocese of Sarum, and county of Berks, are true copies of the entries of baptism. HENRY DISON GABELL,
Rector of Binfield.

30*th October*, 1825.

1665.

William, son of the Earl of Starling, was buried March the 7th.

1678.

Peter, the sonn of the Right Honourable Alexander, Earl of Stirling, was buried November the 30th.

1710.

Robert Alexander, Esquire, buried October y^e^ 10th.

1690.

The Right Honourable Henery, Earl of Sterling, burried February y^e^ 11th.

1739.

Henry Alexander, Earl of Sterlin, December y^e^ 18th.

I certify that the above Extracts are faithfully copied from the Register of Burials of the Parish of Binfield. HENRY DISON GABELL,
Rector of Binfield.

30*th October*, 1825.

St Anne, Westminster.

REGISTER FOR BURIALS.

November, 1729.

5. Peter Alexander, Esq.

This is to certify, that the above Extract is a true

copy of the Register for Burials belonging to the Parish of St Anne, within the liberty of Westminster, and the county of Middlesex. Witness my hand, this 25th day of January, 1828.

Jos. Davies, *Registrar.*

Extract Proceedings in the Service of William Alexander.

1667.

William, the third son of the Earle of Sterling, was baptized June the 6th.

William Alexander, Esq. of Turvill, was buried here, at Binfield, Octob^{r} 24, 1699.

At London, the 13th day of July, 1758.

Compeared William Trumbull, Esquire, of East Hampstead Park, in the county of Berks, aged about fifty years; who, being solemnly sworn and interrogated, depones as follows:—He is only son of the late Sir William Trumbull, by the Lady Judith Alexander, daughter of Henry, Earl of Stirling, who died in or about the year 1690; And further depones and says, That he has been informed, and verily believes, that his grandfather, the said Henry Earl of Stirling, was buried at the parish church of Binfield, in the said county of Berks, and left issue four sons, namely, Henry, William, Robert, and Peter, and also three daughters, namely, Mary, Jane, and Judith, the mother of this deponent; And further depones and says, That he hath been informed that his said uncle, Henry, succeeded his said grandfather in his estate and title of Earl of Stirling, and died in or about the year 1739, and was buried in the aforesaid parish church of Binfield, leaving no male issue; And further depones and says, That his said uncle Henry was, as he verily believes, the last person who enjoyed the dignity of Earl of Stirling, and that his three other uncles, the said William, Robert, and Peter, died in the lifetime of the said Henry, his uncle, leaving no male issue; And further depones and says, That he verily believes that his great grandfather, Henry, Earl of Stirling, had no other son besides the said Henry, his grandfather, for that he, this deponent, has often heard his mother talk of the family, but never heard her mention any such other son, which he

verily believes she would have done if there had been any such other son. And this is the truth, as he shall answer to God. (Signed) W. TRUMBULL.
HENRY DAGGE, *Comr.*
JA. WHITING, *Clk.*

AFFIDAVIT of Sara Lyner.

SARA LYNER of Ballyrydor, in the parish of Stradbally, and Queen's county, widow, aged eightie-foure years or therab^ts^, came this day before me, and made oath on the Holy Evangelysts, That she was borne in the cittye of Coventry, in Warwickshire, but came over with her mother to Ireland at an earlie age, and lived many years at Antrim: That her said mother was sometime in service at my Lord Montgomery's, in the county of Downe, and while there, Mr Jn° Alexander of Garthmore, a son of the Lord Sterline in Scotland, came to see my Lord, and bro^t^ with him his ounely son. And this deponent further saith, That Mr Jn° Alexander of Antrim, in whose service she afterward lived upwards of twenty years, was the same ounely son of the said John of Garthmore. This deponent further deposeth, that she was present when her said meister, John Alexander of Antrim, was maryed at Donaghady, in May, 1682, to Miss Mary Hamilton: That the issue of the said maryge was one sone and two daughters: That deponent nursed her mistress at the time her said ounely son was borne, which was the last day of Septemb^r^, 1686, and that the Rev^d^ Mr Liveingston baptised him a few days after, by the name of John: And this deponent further deposeth, That the present Rev^d^ Minister, John Alexander, now or late dwelling in Stratford-upon-Avon, in Warwickshire, is the said ounely sone of the aforesaid John Alexander of Antrim.

SARA + LYNER
marke.

George Stone.

Capt. et jurat. apud *Ballintemple*, in Com. Regis, 17° die Januarii, 1722, cor. me un. Commis. Extraordinar. in Alt. Cur. Cancellar. in Hibernia, virtute commissionis Dni Regis mihi direct. p. caus. pdic.
JONAS PERCY.

I know the above voucher,
George Stone.
JONAS PERCY.

Affidavit of Henry Hovenden.

Henry Hovenden of Ballynakill, in the Queen's county, gent., aged sixty years or thereabouts, came this day before me and made oath, That he is intimately acquainted with the Rev[d] Minister, John Alexander, grandson and only male representative of John Alexander of Gartmore, the fourth son of William first Earl of Stirling, in Scotland; which said John Alexander was formerly of Antrim, but is now dwelling in Warwickshire, in Great Britain: And this dep[t] further deposeth, That having lately received information from the said Rev[d] John Alexander, that the original charter of the earldom and estates of the aforesaid William, Earl of Stirling, was in the possession of Thomas Conyers of Carlow, in the county of Catherlogh, gent., he, this dep[t], in pursuance thereof, and by the said Rev[d] John Alexander's particular desire, did go to the house of the said Thomas Conyers, on the 10th of this instant July, and, after some discourse, was permitted to see the aforesaid original charter: Whereupon this dep[t] did most minutely examine the contents: And dep[t] further deposeth, That the said charter written in Latin, is dated 7th December, 1639, and contains a novodamus of the titles and dignities of Earl of Stirling, Viscount of Stirling and Canada, &c. &c. and of the lands of the earldom, consisting as therein described, of the Earl's whole estate in Scotland, and the extensive possessions granted to his Lordship in New England and other parts of America; and this dep[t] saith, the following clause, (copied from a paper produced,) is a faithful translation of the original in the charter, which limits the descent of the Earl's estates and titles, 'to him and the heirs-male of his bodye; which failing, to the eldest heirs-female, without division, of the last of such heirs-male hereafter succeeding to the titles, honours and dignities aforesaid, and to the heirs-male to be procreated of the bodys of such heirs-female respectively, bearing the sirname and armes of y[e] familye of Alexander, which they shall be holden and obliged to assume; which all failing, to the nearest legitimate heirs whatsoever of the said William, Earl of Stirling, with precedency from the 14th June, 1633.'

Jurat. coram me 16°. die Julij, 1723.

J. Pocklington.

Hen. Hovenden.

I, Thomas Merefield, public notary, dwelling in the city of Dublin, in the kingdom of Ireland, do hereby attest and certifye all whom it may concern, That I was personally present, and saw the within-named Henry Hovenden subscribe and swear to the within affidavit, before the Hon^ble^ Jn^o^. Pocklington, Esq. one of y^e^ Barons of his Ma^tie's^ Court of Exchequ^r^ in Irel^d^. Witnesse my hand & seal of office, this 16th day of July, 1723, twenty-three.

(L. S.) THO. MEREFIELD, *Not.-Pub.*

I willingly bear testimony to the truth of the statement made in the within affid^t^. Lord Sterling's charter was trusted to my late father, in troublesome times, by y^e^ dec^d^ Mary, Countesse of M^t^ Alexander. I cannot therefore give it up to the Rev^d^ Mr Alexander, without the present Earl's consent.

Carlow, 20*th July*, 1723.

THO^s^. CONYERS.

MEMORANDA in the Reverend JOHN ALEXANDER'S hand-writing.

AN. D.

$17\frac{10}{11}$ On the 7th of Jan. my second sister Elizabeth, wife to John M^ce^ Skinner, dyed of a fever, leaving 3 children, a boy and 2 girls. She was an early convert; and her example, by the blessing of God, was useful to me. She lived and dyed an understanding and eminent Xtian, and left a savoury memory behind her.

1712. On of April, my Hon^d^ Father left this present evil world: tho' he had for some time longed for this happy release, yet his death was not only a great loss to his family, but to the interest of religion in the place where he lived.

Of him the Rev^d^ Mr Livingston, the min^r^ of the place, says, in a letter to me upon the melancholy occasion, 'I reckon myself the sufferer, next to your family: He was my wise, tender, affectionate and faithful friend, whom I could trust for judgm^t^ and integrity in all things relating to me,' &c.

An. 1724.

Jul. 2. To day I had the first account of my mother's death, who, on 1st of June last, peacefully resigned her sp^{t} and fell asleep in Jesus.

I believe she dyed in the year of her age that is commonly called the grand climacterick.

EXTRACT from the Register of the Parish Church of Hartlebury.

WEDDINGS in 1732.

John Alexander of Dublin, and Hannah Higgs of Old Swinford, by licence, August 8th.

The above is a true copy of the Register of the parish church of Hartlebury, in the county and diocese of Worcester, made this 28th day of January, 1824, by me,

SAM$^{L.}$ PICART, *Rector of Hartlebury.*

EXTRACT from the Minute-Book of the Sessions of the Congregation of Plunket Street, Meeting-house, Dublin, (page 296.)

Nov^{r} 1. 1743.

This morning our Reverend Minister, Mr John Alexander, departed this life. This evening, our officers and a few of the congregation meet, and agreed that the congregation be applied to for the charge of the funnerell of our late minister, and that it shall not be a charge on Mrs Alexander.

A true copy.

JOHN STEWART.

INSCRIPTION on the Tombstone of the Reverend JOHN ALEXANDER, Dublin.

Here lyeth the body of the Rev^{d} Mr JOHN ALEXANDER, late Minister of the Presbyterian Church in Plunket Street, who departed this life, Nov^{r} the first, 1743, aged 57 years; and his daughter HANNAH ALEXANDER.

MS. of the Reverend JOHN ALEXANDER, Dublin, of the Births of his Children.

Mary, my eldest daughter, was born in Dublin, Earl Street, Oct. 1. A. D. 1733.

Hannah, my second daughter, was born Dec. 5. 1734, dy'd Sept. 17. being the L^ds. day, an. 1738, of the small-pox.

John, my third child, was born Jan. 26, being Monday, A.D. 1735—6.

Elizabeth, my fourth child, was born Mar. 11, and Benjamin, my fifth child, at the same time, A. D. 1736—7. Elizabeth dy'd Oct. an. 1737.

Hannah, my sixth child, was born Jan. 8, being Thursday, an. 1740—1.

EXCERPTS from the Plunket Street Church Baptismal Register, Dublin.

Oct. 1733.

15. Mary, to John and Hannah Alexander, Earl Street, baptis^d by Mr Jo^n Leland.

Dec. 1734.

15. Han. to the Rev^d Mr John Alexander and Hannah his wife, baptis^d by the Rev^d Mr John Leland.

Feb. 1735, Baptized.

1. Jo^n to the Rev^d Mr Jo^n Alexander, and Hannah his wife, baptis^d by the Rev^d Mr Francis Iredel.

March 1736.

17. Ben. and Elis. twins, to the Rev^d Mr John Alexander, and Hannah, baptis^d by the Rev^d Mr Francis Iredel, 1737.

Jan. 1740.

9. Hannah, to the Rev^d Mr John Alexander, baptis^d by Mr Rob^rt Macmaster.

INSCRIPTION on the Tombstone of the Reverend John Alexander, Birmingham.

Sacred to the Memory of
The Rev^{d} Mr Jn^{o} ALEXANDER,
who was eminently distinguished
for a Christian Scholar and Divine,
though cut off in his thirtieth year.
He was born Jan^{y} 26. 1736.
Died Dec^{r} 29. 1765.
Learn, Reader, That
Honourable age is not
that which standeth in length
of time, nor that is measured
by number of years:
But wisdom is the grey hair,
and an unspotted life
is old age.
Also in memory of
HANNAH ALEXANDER, who died
Oct, 5. 1768, aged 63 years.

EXTRACT from the Register of Burials in Bunhill Fields Burying Ground.

ORIGINAL LETTER to Mrs Ellen Teverill, Birmingham, also produced.

1768.
April 21. Dr Alexander from Baisinhall Street in a grave.

The above is a true copy of the said Register, taken this 15th day of Dec. 1825,

LETITIA MOUNTAGUE, for
S. MOUNTAGUE, *Keeper*.

London, April, 19th 1768.

DEAR SISTER, 'Tis probable y^{t} before you receive y^{s}, you will have heard y^{t} Dr Alexander died yesterday morning about one o'clock. It was a very great surprise to us all. He had called once at my uncle's since his other illness, and seemed purely recovered. We heard no more of him till yesterday, w^{n} my uncle's barber coming to shave him, said he

heard y^t^ Dr Alexander was dead. My uncle went immediately to his house and found it true. He had been extremely ill of a fever four or five days. It was a wonder they had not sent my uncle word of his illness. I was out all day, and did not hear of it till evening. I had intended calling to lett him know that I was returned from Ware. This event has greatly affected us all, and none more y^n^ myself. I am indeed very much concerned for Mrs Alexander, and our young friends. Miss Hannah's ill health will render her less able to bear such a shock. I am afraid it should be too much for her. I wish it was in my power to administer consolation; you, I know, will endeavour it. The comforts of religion are theirs, and I trust and hope will be sufficient for their support under this trying affliction. They have shewn a noble fortitude, a distinguishing submission and resignation, and done great honour to y^m^selves and Christianity. May y^e^ same God be their support now. He will, for he has said, I will never leave thee nor forsake thee. You may assure y^m^ of my love and sympathy; I feel for their distress. Pray send me word how they do when you write. The Dr has left two Mr Cooks his executors. I tremble for the rest of her little ones. Our stay here being so very uncertain, let us, my dear sister, be daily endeavouring after a preparedness for a future and better state, where y^e^ visicitudes of y^s^ will be known no more. I am obliged to conclude in haste. Give my duty to mamma, and accept my love. I am my dear sister's most affectionate,

(Signed) M. N. PICKARD.

The joint respects of our friends attend you.

INSCRIPTION on a flat stone by the side of the Tombstone of the Reverend John Alexander, Birmingham.

Sacred to the Memory
of the Rev^d^ Mr BENJ^N^ HIGGS,
who died 30, Jan^y^ 1770,
aged 60 years.
Also in Memory of
MARY ALEXANDER, who died
April 1794, aged 60.
Also in Memory of
5 children of W^M^ and HANNAH
HUMPHRYS, who died
in their infancy.

DEPOSITION of ELIZA POUNTNEY, commonly called Lady ELIZA POUNTNEY, taken in the service of ALEXANDER, EARL of Stirling, to his Mother.

At the Town of Manchester, in the County-Palatine of Lancaster, the 27th day of January 1826.

Mrs Eliza Pountney, commonly called Lady Eliza Pountney, wife of Charles Pountney, of Manchester, aforesaid, Esq. aged 44 years or thereabouts, deposeth, That she is the youngest daughter of the late William Humphrys of Birmingham and of the Larches in the county of Warwick, Esq. some time since deceased, and is sister to Alexander Humphrys Alexander, Earl of Stirling, &c. being, along with her sister Hannah, the wife of William Horsley of Manchester aforesaid, Esq. the three only surviving children of the said William Humphrys, by Hannah Alexander, his wife, who died in 1814, and in her lifetime was entitled to be Countess of Stirling; and this deponent saith, That her said late mother being a person of great humility, and perfectly unostentatious, did not take upon herself the title of Countess, though this deponent saith she well remembers to have heard her mother often say to her children that they had noble blood in their veins; and this deponent saith, that her late father, the aforesaid William Humphrys, Esq. frequently used to call her mother his Countess; and this deponent saith, that she has repeatedly heard her mother, when alive, mention that she had seen in her mother's (this deponent's grandmother) possession an emblazoned pedigree of the Earls of Stirling, setting forth their marriages, issue, and descent; but which pedigree her mother stated had been in some manner or other lost, or surreptitiously stolen away, together with divers other family papers, and valuable documents respecting the title and descent of the Earldom of Stirling to her family: And this deponent saith, That she also remembers to have heard her mother aforesaid relate that she had two brothers, John and Benjamin Alexander, and that it had been their full intention to have assumed their peerage honours, had not early death cut them off in the prime of life; also that they died unmarried, as did her elder sister Mary, whereby she (this deponent's mother) said she believed herself to be the last of her family of the Alexanders who were entitled to be Earls of

Stirling: And this deponent saith, That she considers the before mentioned particulars were all matters of notoriety in the then circle of her mother's friends; but she does not know of any of those friends who are now alive: And this deponent saith, That her mother died at her house in the College Green, in or near Worcester, and was interred in the Presbyterian burying ground in that city: Lastly, this deponent saith, That she better, and more particularly remembers all to which she has deponed, because she was more constantly with her said mother, than either her elder sister Hannah, the wife of William Horsley, Esq. aforesaid, or her brother, Alexander, now Earl of Stirling: And all this is truth, as she shall answer to God.

ELIZA POUNTNEY.
ALDCROFT PHILLIPS, *Commissioner.*
ALEXANDER HORSLEY, *Clerk.*

GENERAL RETOUR of the Service of Alexander Earl of Stirling, to his Mother.

Hæc Inquisitio facta fuit in curia regalitatis burgi vici Canonicorum septimo die mensis Februarii anno Domini millesimo octingentesimo et vigesimo sexto coram honorabili viro Gulielmo Bailey armigero uno balivorum dicti burgi per hos probos et fideles patriæ homines, viz. Thomam Christopherum Banks, honorabilis societatis Interioris Templi Londini armigerum, Ephraim Lockhart armigerum, scribam signeto regio, Henricum Wharton, Joannem Stewart Mein, Georgium Stewart Jack et Joannem Mason scribas in Edinburgo, Alexandrum Adam, Robertum Renton White, Jacobum Smith et Davidem Kirk mercatores ibidem Joannem Brett fabrum lignarium ibid. Gulielmum Muir, Archibaldum Craig, Duncanum Mackenzie et Allanum M'Gill mercatores in vico Caonicorum, Qui jurati dicunt magno sacramento interveniente Quod quondam Hanna Alexander alias Humphrys, mater Alexandri Humphrys Alexander de Netherton House in comitatu de Worcester, Comitis de Stirling, Vicecomitis de Stirling et Canada, Domini Alexander de Tullibodie, &c. latoris præsentium unici surviven. filii dict. quond. Hannae Alexander alias Humphrys quae uxor fuit Gulielmi Humphrys de Birmingham et lie The Larches ambobus in comitatu de Warwick armigeri et ultima surviven. hæres femella

Benjaminis Alexander ex Basinghall Street Londini ejus fratris germani ultimi haeredis masculi e corpore Gulielmi Alexander de Menstrie militis Baronetti primi Comitis de Stirling abavi ejus succeden. titulis honoribus et dignitatibus limitat. dicto Gulielmo Comiti de Stirling et hæredibus masculis ex ejus corpore &c. per literas patentes seu cartam de novodamus sub sigillo magno Scotiae de data septimo die Decembris anno millesimo sexcentesimo et trigesimo nono obiit ad fidem et pacem S. D. N. regis; et quod dict. Alexander Humphrys Alexander Comes de Stirling, Vicecomes de Stirling et Canada, Dominus Alexander de Tullibodie, &c. lator præsentium est propinquior et legitimus hæres masculus ex corpore dict. quond. Hannæ Alexander alias Humphrys ejus matris; et quod est legitimæ ætatis. In cujus rei testimonium sigilla eorum qui dictæ inquisitioni intererant sunt appensa nec uon cum subscriptioni clerici dict. burgi sub inclusione sigilli dict. balivi cum brevi regio incluso loco die mensis et anno prædictis.

(Sic subscribitur) JOHN MACRITCHIE, *Clerk.*

Hæc est vera copia principalis retornatus super præmissis in Cancellaria S.D.N. Regis remanen. ext. copiat. et collat. per me Thomam Miller substitutum Jacobi Dundas deputati præhonorabilis Jacobi St Clair Erskine Comitis de Rosslyn ejusd. cancellariæ directoris sub hac mea subscriptione.

THOMAS MILLER, *Sub.*

II.

PROCEEDINGS in the service of ALEXANDER, EARL of STIRLING, as Heir in special of WILLIAM, EARL of STIRLING.

Court of the service of the brieve issued forth of his Majesty's Chancery, at the instance of Alexander, Earl of Stirling and Dovan, Viscount of Stirling and Canada, Lord Alexander of Tullibodie, &c. for serving him nearest and lawful heir of the deceased Sir William, Alexander of Menstrie, Miles, the first Earl of Stirling, his great-great-great grandfather, in all and sundry

lands and others in the fee of which the said William, Earl of Stirling, died last vest and seised, at the faith and peace of our Sovereign Lord the King then reigning, holden within the Parliament or new Session House of Edinburgh, in manner after specified.

At Edinburgh, the 2d day of July, in the year 1831, and within the Parliament or new Session House there, in the Court-room of the First Division of the Court of Session, in presence of George Tait, Esq. Sheriff-substitute of the sheriffdom of Edinburgh, as Sheriff of the sheriffdom of Edinburgh, specially constituted to the effect after mentioned, compeared Thomas Christopher Banks, Esq. residing at No. 19, Duke Street, Edinburgh, as procurator and mandatary for and in name of the said Alexander, Earl of Stirling, &c. according to mandate dated the 28th day of June last past, and thereby specially empowered to purchase a brieve forth of Chancery, and to obtain the said Alexander, Earl of Stirling, &c. served nearest and lawful heir of the said deceased William, Earl of Stirling, his great-great-great grandfather, in the lands and others after mentioned, and to procure such service retoured to Chancery, and produced his Majesty's commission, by deliverance of the Lords of Council and Session, passed under the quarter-seal, otherwise called the testimonial of the seal appointed by the treaty of Union to be made use of within Scotland, in place of the great seal thereof, making, constituting and appointing the Sheriff-depute of the said sheriffdom of Edinburgh, or his substitute, Sheriff of the said sheriffdom of Edinburgh, for serving the brieve to be issued forth of his Majesty's Chancery for cognoscing the said Alexander, Earl of Stirling, &c. nearest and lawful heir of the said deceased William, Earl of Stirling, his great-great-great grandfather, in all and sundry lands and others in which the said William, Earl of Stirling, died last vest and seised as of fee, at the faith and peace of our Sovereign Lord the King then reigning, and which commission contains a dispensation with the place and time of vacance, and is dated the 10th and sealed the 15th days of June last past: And the said Thomas Christopher Banks, Esq. procurator and mandatary foresaid, having desired the said Sheriff-substitute of the sheriffdom of Edinburgh, to proceed to the execution of the office of Sheriff thereby committed to him, the said Sheriff made choice of Ephraim Lockhart, writer to his Majesty's Signet, and notary-public, to be clerk for the service of the said Alexander, Earl of

Stirling, &c. as heir foresaid, and of Lindsay Rae, gown-keeper to the society of writers to the said Signet, to the officer for the Court of the said service; and who being both solemnly sworn, made oath *de fideli administratione*, and thereafter the said Court was fenced in the name and authority of his Majesty, and by order and in the name and authority of the said Sheriff-substitute of the sheriffdom of Edinburgh, as Judge appointed by the said commission; and the Court being so fenced, compeared the several honourable and worthy persons after named, who had been all lawfully summoned before, to pass upon the Inquest of the said brieve, as being most proper and least suspected, and who best knew the verity of the matter. They are to say, Patrick Robertson and James Welsh, Esqrs. advocates, David Johnston, Esq. doctor of medicine, in Edinburgh, John Renton, James Balfour, James Macdonell, John Dickie, Henry Inglis, *junior*, and James Souter, Esqrs. writers to his Majesty's Signet, John Stirling, Esq. accountant in Edinburgh, John Adams, John Phillips and Thomas Ranken, solicitors of the Supreme Courts of Scotland, William Wallace Sibbald, Esq. residing in Edinburgh, and Joseph Low, writer there. Whereupon the said Thomas Christopher Banks, Esq. procurator and mandatary foresaid, produced a brieve issued forth of his Majesty's Chancery, dated the 10th day of June last past, directed to the Sheriff-depute of the sheriffdom of Edinburgh, or his substitute, Sheriff of the sheriffdom of Edinburgh, specially constituted as aforesaid, at the instance of the said Alexander, Earl of Stirling, &c. for cognoscing him nearest and lawful heir of the said deceased William, Earl of Stirling, his great-great-great grandfather, in all and sundry lands and others in which the said William, Earl of Stirling, died last vest and seised as of fee, at the faith and peace of our said Sovereign Lord, together with an execution of the said brieve under the hands of William Swanston, officer of the Sheriff of the sheriffdom of Edinburgh, and of James Calder and Donald Macleod, both residenters in Edinburgh, as witnesses, bearing the said William Swanston to have passed to the market-cross of the burgh of Edinburgh, head borough of the said sheriffdom of Edinburgh, upon the 15th day of June last past, being a market day within the said burgh of Edinburgh, and in open market time, and to have duly and openly proclaimed and executed the brieve in due form of law; and which brieve, with the execution thereof, being audibly and publicly read, the said Judge found that the said brieve was duly and law-

fully executed: Thereafter the said Thomas Christopher Banks, Esq. procurator and mandatary foresaid, exhibited and produced a claim for the said Alexander, Earl of Stirling, &c. praying that he should be served and cognosced nearest and lawful heir of the said deceased William Earl of Stirling, his great-great-great grandfather, in all and sundry the lands, continents and islands situate and lying in America, and others therein particularly described; and for verifying the several heads of the said claim, the above-named Thomas Christopher Banks, Esq. procurator and mandatary foresaid, produced the writs after mentioned, viz. Book the 51st of the Register of the Great Seal, containing the record of a charter of novodamus under the said seal, of date the 12th day of July in the year 1625, made, given and granted by his Majesty, Charles I. in favour of the said William, Earl of Stirling, (then and therein named Sir William Alexander,) of the lands, barony and lordship of Nova Scotia, in America: *Secundo*, Extract registered instrument of seisin, following upon the precept in the said charter, in favour of the said William, Earl of Stirling, of date the 29th day of September, in the said year 1625, recorded in the General Register of seisins, &c. kept at Edinburgh, the 1st day of October, and year foresaid: And *lastly*, General retour of the service, expede before the bailies of the burgh of Canongate, of the said Alexander, Earl of Stirling, as heir of the said deceased William, Earl of Stirling, his great-great-great grandfather, which retour is dated the 11th day of October, 1830, and duly retoured to Chancery; and for instructing the old and new extent of the lands and others contained in the said claim, and in which the said William, Earl of Stirling, died last infeft, there was produced a charter under the great seal, of date the 10th day of September in the year 1621, made, given, and granted by his majesty James the Sixth, in favour of the said William Earl of Stirling, then Sir William Alexander, of the lordship and barony of Nova Scotia in America, which charter was written to the said seal the 29th day of the said month of September and year foresaid, and sealed the same day. After production of which claim, and writs before mentioned, the said Sheriff-substitute of the sheriffdom of Edinburgh, as Judge foresaid, caused the said Lindsay Rae, officer of court, call peremptorily and openly in judgment, all parties having or pretending to have interest; which being accordingly done, and none compearing to object against the service of the said brieve, and lawful time of day being waited, the said procurator and mandatary

protested *contra omnes non comparentes*, that they should be silent for ever after; and also desired that the said claim, and writs produced for verifying the said claim, might be referred and admitted to the knowledge of the Inquest before named; and the said Sheriff-substitute of the sheriffdom of Edinburgh, as Judge foresaid, finding the said desire to be just and reasonable, he admitted thereof, and remitted the said matter to the knowledge of the Inquest; and who being all solemnly sworn by the said Judge, they made faith *de fideli administratione*, and then elected the said Patrick Robertson, Esq. advocate, to be their chancellor; and thereupon the said claim was openly and publicly read, and compared with the foresaid writings, produced for vouching and verifying thereof: And thereafter the said Sheriff-substitute of the sheriffdom of Edinburgh, as Judge foresaid, caused the said Lindsay Rae, officer of Court, call again thrice peremptorily in judgment, at the most patent door of the said new Session House, all parties having, or pretending to have interest; which being accordingly done, and none compearing to object, the said procurator and mandatary again protested *contra omnes non comparentes*, that they should be ever thereafter silent; and then they, the said worthy persons of Inquest, all in one voice, and without variance, by the mouth of their said chancellor, found the foresaid claim sufficiently instructed and proven, and therefore served and cognosced the said Alexander, Earl of Stirling, &c. nearest and lawful heir in special of the said deceased William Earl of Stirling, his great-great-great grandfather, in all and sundry the lands and others contained in the said claim, in which the said William, Earl of Stirling, died last vest and seised, and that conform to the said claim, and the verdict of the said Inquest, subjoined thereto, and signed by their said chancellor in all points; and ordained the said service, under the hand of the Clerk of Court, with the said brieve, to be retoured to his Majesty's Chancery; and to which verdict and service, the said Sheriff-substitute, of the sheriffdom of Edinburgh, as Judge foresaid, adhibited his authority, and ordained the same to be retoured in manner foresaid: Whereupon, and upon all and sundry the premises, the said procurator and mandatary asked acts of Court, and asked and took instruments in the hands of the Clerk of Court aforesaid, and the Sheriff interponed his authority to the premises.

(Signed) G. TAIT.
EPH. LOCKHART, *N. P.* and *C. D.*

DOCUMENTS produced in the Service of Alexander, Earl of Stirling, as Heir in special of William, Earl of Stirling.

Charter of the Lordship and Barony of Nova Scotia, in America, under the Great Seal, in favour of Sir William Alexander, dated 10th, and sealed 29th September, 1621.

Register of the Great Seal, Book the fifty-first, containing the Record of Charter of *Novodamus* of the Lands, Barony, and Lordship of Nova Scotia to Sir William Alexander, dated 12th July, 1625.

Extract Registered Instrument of Sasine, following upon the precept in the said Charter, in favour of Sir William Alexander, dated 29th September, and recorded 1st October, 1625, in the General Register of Sasines, &c. kept at Edinburgh.

General Retour of the Service of Alexander, Earl of Stirling, to William, Earl of Stirling.

Hæc Inquisitio facta fuit in curia regalitatis burgi vici Canonicorum undecimo die mensis Octobris anno Domini millesimo octingentesimo et trigesimo coram honorabili viro Joanne Robertson armigero uno balivorum dicti burgi per hos probos et fideles patriæ homines viz. Alexandrum Monypenny, Jacobum Dalgliesh et Gulielmum Fraser armigeros, scribas signeto regio, Joannem M'Liesh de Maryfield armigerum, Philippum Crow, Archibaldum Douglas, Joannem Mason et Robertum Oliphant scribas in Edinburgo, Jacobum Simpson scribam in Leith, Jacobum Gardner pharmacopolam in Edinburgo, Gualterum Marshall pictorem ibidem, Robertum Latta exactorem custumarum ibidem, Thomam Workman mercatorem in vico Canonicorum, Joannem Sutherland residentem ibidem, et Alexandrum Brodie mercatorem in Leith, Qui jurati dicunt magno sacramento interveniente, Quod quondam Gulielmus primus Comes de Stirling atavus Alexandri Comitis de Stirling Vicecomitis de Stirling et Canada Domini Alexander de Tullibodie &c. unici surviventis filii decessae Hannae Alexander alias Humphrys quæ uxor fuit Gulielmi Humphrys de Birmingham et lie the Larches ambobus in comitatu de Warwick Armigeri et soror germana et ultima survivens hæres fem ella demortui BenjaminiAlexander ex Basinghall

Street Londini abnepotis et ultimi haeredis masculi de corpore dicti quondam Gulielmi Comitis de Stirling obiit ad fidem et pacem S. D. N. Regis; Et quod dictus Alexander Comes de Stirling lator præsentium est propinquior et legitimus hæres in generali dicti quondam Gulielmi Comitis de Stirling sui atavi; Et quod est legitimæ ætatis. In cujus rei testimonium sigilla eorum qui dictæ inquisitioni intererant sunt appensa nec non cum subscriptione clerici dicti burgi sub inclusione sigilli dicti balivi cum brevi regio incluso loco die mensis et anno prædictis.

(Sic subscribitur) WILLIAM FRASER, *Jun. Clerk.*

Hæc est vera copia principalis retornatus super præmissis in Cancellaria S. D. N. Regis remanen. ext. copiat. et collat. per me Joannem Dundas substitutum Jacobi Dundas deputati præhonorabilis Jacobi St Clair Erskine Comitis de Rosslyn ejusdem Cancellariæ directoris sub hac mea subscriptione.

JOHN DUNDAS, *Sub'.*

BOND of CORROBORATION by John Alexander and Others, to Sir Thomas Hope of Kerse, dated 9th June, 20th July, and 2d September, 1638, and Registered in the Books of Session 28th January, 1640.

Be it kend till all men be thir present letteris, ws, Williame, Erle of Stirling, Lord Alexander of Tulliebodie, forsamekill as vmq^le^ Williame, Lord Alexander, our eldest laufull sone, as principall, and vmq^le^ Sir Antonie Alexander, our sone, and Mr James Gordoun, keipar of the Signet, as cautionaris for him, be their band and obligatioun, subscryuit with thair handis, of the dait, the fourtene day of December, Jmvjc. 36 yeirs, grantit thame to be addettit and awand to Sir Thomas Hope of Kerss, knicht, all and haill, &c. as the said band and obligatioun, of the dait foirsaid, in itselff at mair lenth beiris: And now seing it hes pleisit God to call the said vmq^le^ Williame, Lord Alexander, our sone, out of this mortall lyffe, and that we ar willing to secure the said Sir Thomas, and his foirsaidis, for payment of the foirsaidis sowmes: Thairfoir witt ye ws, the said Williame, Erle of Stirling, as principall, and with ws, Johne Alexander of Graitmure, Charles Alexander, our sones, &c. as cautionaris, souerties, and full dettouris for ws, but preiudice of the foirsaid obligatioun, maid to the said

Sir Thomas, and his foirsaidis, of the foirsaid principall sowme, annuel rentis, and expenses yairof, bot in farder corroboratioun of the samyn, *accumulando jura juribus*, to be bund and oblist, lykeas we, be the tennour heirof, bindis and obliss ws, conjunctlie and seueralie, our airis and executouris, to content and pay to the said Sir Thomas Hope, and his foirsaidis, the foirsaid principall sowme, &c.

(Sic subscribitur) JOHNE ALEXANDER.
CHARLES ALEXANDER.
Mr J. GORDOUN.
ANDRO ALEXANDER.
HENRIE ALEXANDER.

HERITABLE BOND of CORROBORATION to Sir Thomas Hope of Kerse, dated 10th January, 1639, and registered *ut supra*, executed by WILLIAM, EARL OF STIRLING.

CHARTER under the Great Seal in favour of William, Earl of Stirling, of the Lands and Barony of Gartmore, dated 23d January, 1636.

Carolus, &c. Sciatis nos, &c. dedisse, &c. prædilecto nostro consanguineo et consiliaro Willielmo Comiti de Stirling Vicecomiti de Canada Domino Alexander de Tullibodie, &c. omnes et singulas duodecim mercatas terrarum antiqui extentus de Gairtmoir, &c. Quæquidem omnes et singulæ prænominate terræ &c. ad Agnetam Grahame filiam et hæredem quondam Roberti Grahame de Gairtmoir et ad Joannem Alexander ejus maritum de nobis superiore earundem immediate tent. perprius pertinuerunt et quæquidem per dict. Agnetam Grahame cum express. consensu dicti Joannis Alexander ejus sponsi pro suo interesse et per dict. Joannem Alexander pro seipso ac onus in se suscipien. pro dicta Agneta Grahame ejus sponsa ac etiam cum express. consensu ac assensu Magistri Jacobi Gordoun nostri signeti custodis pro suo interesse et per dict. Magistrum Jacobum pro seipso, &c. resignatæ renunciatæ et per fustim et baculum ut moris est pure et simpliciter extradonatæ fuerunt, &c.

Inscription on the Tombstone of Henry, Earl of Stirling, Binfield Church, county of Berks.

Here lieth the body of the Right Honourable Henry Alexander, Lord Alexander, Viscount Canada, and Earl of Stirline,

of the kingdom of Scotland. He married Elizabeth Hobby, widow of John Hobby, Esq. of Bisham Abbey, in this county, and died without issue, on the 4th day of December, 1739, aged 75 years.

Extract from the Register of Marriages of the Parish of St Martin, Birmingham.

William Humphrys of this parish, bachelor, merchant, and Hannah Alexander of the parish of St Philip in Birmingham, spinster, were married in this church, by licence, this 26th day of September, in the year 1769,

By me, JOHN GAUNT, *Lecturer.*

This marriage was solemnised between us, { *William Humphrys.* / *Hannah Alexander.*

In the presence of { *John Kettle.* / *Mary Alexander.*

I certify that the above is a true copy of the Register, taken from the Register Book of Marriages, belonging to the parish of St Martin in Birmingham, in the county of Warwick.

JN°. MOORE, *Lecturer.*

24*th Jan*^{y}, 1824.

Inscription on the Tombstone of Mrs Hannah Humphrys, formerly Alexander, Worcester.

In a vault beneath this stone
lie the mortal remains of
HANNAH HUMPHRYS,
who departed this life 12th Sept^{r} 1814,
aged 72.
She was the relict of
WILLIAM HUMPHRYS, Esquire,
(formerly of Birmingham,)
who died at Verdun in France,
May 1st 1807, aged 65.

MEMORANDUM by William Humphrys, Esq. of the Births of his Children.

John

1. My first child (a boy) was born 6. July, 1770. — Died 26. Nov. 1772.

Patty

2. My sec[d] child (a girl) 4. Sept. 1771. — Died 13. Feb. 1773.

Hannah

3. My third child (a girl) 29. March, 1773.
not baptized.
4. My fourth child (a boy) 8. June, 1774. -- Died 26. same month.

Sarah

5. My 5th child (a girl) was born 1st Octob[r] 1775. — Died 22. March, 1780.

Polly

6. My 6th child (a girl) 16. Nov[r] 1776. — Died 13. March, 1788.

Eliz.

7. My 7th child (a girl) 12. Feb. 1779.

Alexander

8. My 8th child (a boy) 21. June, 1783.

PROCURATORY of RESIGNATION, Alexander, Earl of Stirling, in favour of Thomas Christopher Banks, Esq.

I, Alexander, Earl of Stirling and Dovan, considering that, by a precept of seisin from his Majesty, issued out of his Chancery in Scotland, dated the 7th day of July, in the year 1831, following upon the retour of my special service, as nearest and lawful heir of the deceased Sir William Alexander of Menstrie, the first Earl of Stirling, my great-great-great grandfather, in the province, lands, country, and lordship of Nova Scotia in America, and in virtue of my infeftment therein, I, my heirs or assignees, or our deputies, are his Majesty's hereditary lieutenants of the said country and lordship of Nova Scotia, and plenary power is granted to me, my heirs or assignees, of conferring honours and bestowing titles, as shall appear necessary, upon those who reside in the said province, or who employ their means for the advantage

and improvement thereof; as also of giving, granting, and disponing any parts or portions of the said lands, country, and lordship of Nova Scotia, heritably belonging to us, to and in favour of whatsoever persons, their heirs and assignees, heritably, (only that they be his Majesty's subjects,) to be holden either of me or of his Majesty, and his royal successors: By which precept it is declared, that the said dispositions shall be approved and confirmed by his Majesty, or his aforesaid, freely, without any composition to be paid therefor; and moreover, that his Majesty, and his royal successors, shall receive whatsoever resignations shall be made by me, and my heirs and assignees, of the foresaid lands and lordship of Nova Scotia, or of any part thereof, in the hands of his Majesty, and his successors and commissioners, having power to receive resignations, in favour of whatsoever person or persons, (only that they be his Majesty's subjects, and live under his obedience,) and for new infeftments, to be holden of his Majesty, his heirs and successors, in manner therein mentioned, freely, without any composition, and whereby all places, privileges, prerogatives, and precedencies whatsoever, given, granted, and reserved to me and my successors, lieutenants of the said country and lordship of Nova Scotia, on behalf of the knights, baronets, and remanent portioners and associates of the plantation thereof, are ratified and confirmed to me, my heirs and assignees; as the instrument of seisin in my favour in the said lands and lordship of Nova Scotia, dated the 8th day of July, and year foresaid, and duly recorded in the General Register of Seisins kept at Edinburgh, will testify: And further, considering that I have good experience of the worth and sufficiency of Thomas Christopher Banks, Esq. and of his great affection to his Majesty, and understand his willingness to promote the advantage and improvement of the said plantation, therefore I do, by these presents, bind and oblige myself, and my heirs and assignees, to make due and lawful resignation of all and whole that part or portion of the foresaid lands and lordship, extending to 16,000 acres of land, situate within such boundaries, and limits therein, as shall have been previously determined and agreed upon, with houses, buildings, &c. together with all mines and minerals whatsoever, with the power of digging, purifying, and refining the same, and using them likeas, and as freely as I, my heirs and assignees, can do; the whole of the said subjects to be united, annexed, and incorporated into one entire and free barony, called, and to be called, in all time coming, the

barony of St Maur, together with the heritable state, degree, order, name, dignity, and style of Baronet, with all and sundry prerogatives, privileges, precedencies, and conditions, such as any other baronets, within the kingdom of Scotland and the country of Nova Scotia, or their heirs-male whatsoever, had or have by their charters or patents; which prerogatives and others, and every one of them, shall be equally sufficient and valid, as if each were particularly granted and expressed in these presents: And to that effect, I do hereby constitute and appoint

and each of them, conjunctly and severally, my lawful and irrevocable procurators, giving, granting, and committing to them, full power and warrant for me, and in my name, to resign and surrender, as I do hereby resign, surrender, upgive, and overgive, all and whole the said part or portion of the foresaid lands and lordship of Nova Scotia, and others above mentioned, in the hands of my immediate lawful superiors of the same, or of their commissioners in their name, having power to receive resignations, and to grant new infeftments thereupon, in favour and for new infeftment of the same, to be made, given, and granted to the said Thomas Christopher Banks, Esquire, his heirs-male and assignees whatsoever, heritably, in legal and competent form; acts, instruments, and documents in the premises to ask and take, and generally every other thing concerning the premises to do, which I could do myself if personally present, or which to the office of procuratory in such cases is known to appertain, promising hereby to ratify and confirm whatsoever my said procurators shall lawfully do, or cause to be done, in the premises: And consenting to the registration hereof in the books of Council and Session, in Scotland, or others competent and proper for preservation, and that all necessary execution may pass hereon, in common form, I hereto constitute

my procurators, &c. In witness whereof, &c.

Dated 14*th July*, 1831.

DEFENDER'S PROOF, in the Action of Reduction Improbation the Officers of State against Alexander, Earl of Stirling.

At Rathgael, in the County of Down, the 9th day of January, in the year 1836.

Which day there was produced to me, James Clealand, Esq. one of his Majesty's Justices of the Peace for the county of Down, in Ireland, an act and commission, dated the 26th day of November, 1835, granted by Lord Cockburn, one of the Judges of the Court of Session in Scotland, in an action of reduction and improbation depending in that Court, in which the officers of State for Scotland are pursuers, and Alexander, Earl of Stirling, and others, are defenders; of which commission I accepted, and made choice of Alexander Montgomery of Belmont, in the said county of Down, solicitor, to be my clerk, to whom I administered the oath *de fideli*, as use is.

Thereafter appeared Ephraim Lockhart, W.S. as agent for the defenders, and Roderick Mackenzie, W.S. as agent for the pursuers, who protested that the defender had no right to design himself Earl of Stirling.

Thereafter compeared MARGARET M'BLAIN, widow of James M'Blain in Newton Ards, aged eighty years or thereabouts; who being solemnly sworn, purged of malice and partial counsel, and examined and interrogated by and in the presence of the said Commissioner, depones, That she remembers the last Countess of Mount Alexander, who resided in Donaghadee, and died sixty-four years past last April: That the deponent was ten years and upwards in Lady Mount Alexander's service down to the time of her death: That she has often heard Lady Mount Alexander speak of a John Alexander, who had a son, also called John Alexander, who married Mary Hamilton: That said John the second, and Mary Hamilton, had a son, who was the Reverend John Alexander: That John the first was called of Gartmore, and John the second lived in Antrim; and the Reverend John Alexander was a minister in Dublin, and died there; all which she heard from Lady Mount Alexander on various occasions, who moreover added, that all these persons of the name of John Alexander lived in Antrim: That she has

further heard Lady Mount Alexander say, that Mary Hamilton, before mentioned, was sister to Sir James Hamilton, who was a general in the English army, and lived and died, and was buried in Bangor; and that the said Mary Hamilton had two sisters, Jane, who was married to the Reverend Mr Livingston of Donaghadee, and Anne, who was married to Mr Dalrymple of Ballymacruse, but neither of her said sisters had any issue. Being interrogated for the *pursuers*, depones, That her maiden name is M'Clune, and that her father and mother and she always resided in Donaghadee, where she was born: That she was about four or five years of age when she went into the service of Lady Mount Alexander: That her duty in her Ladyship's service was to run on errands for the servants and for her Ladyship: was never employed as her Ladyship's waiting-maid, nor was she employed about her person: To the best of her recollection she was about fourteen or fifteen years of age when her Ladyship died: That her Ladyship, to the best of her recollection, was about sixty-five years of age when she died: That during the latter years of her Ladyship's life she has heard her relate the matters above deponed to to her waiting-maid and herself, when in attendance on her: That her Ladyship's maiden name was Delacherois; she was a Frenchwoman and a Huguenot: That her husband was Thomas Montgomery, Earl of Mount Alexander: That she heard her Ladyship say, that the first John above deponed to was called John of Gartmore, which she supposes to be a place near Antrim, and that he was a long time a widower, and built alms-houses for widows in Antrim. She never heard her Ladyship say what countryman John of Gartmore was, or that he was a Scotchman, but that he was a great gentleman near Antrim, and had great estates there. Her Ladyship never mentioned the date of the second John's marriage, or where they were married, but has heard her say that Mr Livingston christened their son: That she never heard her Ladyship say that John of Gartmore was an Irishman. Reinterrogated for the *defender*, depones, That her occupation in her Ladyship's service, as she grew up, was to attend in cleaning the furniture and assisting the cook. All which is truth as she shall answer to God. Depones that she cannot write.

Mary Lewis, formerly Hamilton, widow of Robert Lewis, in Newton Ards; who, being solemnly sworn and interrogated, as aforesaid, depones, That she does not know her age exactly, but believes she is eighty-six years old: That

she has heard of a person of the name of Alexander, who married a woman called Mary Hamilton: That she does not know whether that Mary Hamilton was any relation of hers or not: That from old age and infirmity she cannot depone farther, and cannot write. All which is truth, &c.

Eleanor Battersby, formerly Lewis, wife of Samuel Battersby, residing in Newton Ards, aged fifty-one years; who, being solemnly sworn and interrogated, as aforesaid, depones, That she is daughter of Mary Lewis, the preceding witness, and that witness's grandmother was Sophia Monk, whom she remembers. Has heard her speaking of Mary Hamilton, who was a near friend of James Hamilton of Bangor, Esq. who was the son of Hans Hamilton, a clergyman in Bangor: That Mary Hamilton was a sister of James Hamilton of Bangor, and was married to John Alexander of Antrim, and had to him one son, called John, who afterwards became a clergyman in Dublin. Has heard her grandmother say, that she heard her father say, that the said John of Antrim was come of the Alexanders from Scotland, and was nearly related to the Earl of Mount Alexander of Ireland: Heard her grandmother also say, that she had heard from her father, that John of Gartmore was the Honourable John Alexander, and was the father of John of Antrim. Interrogated for the *pursuers*, depones, That she was between twelve and thirteen years of age when her grandmother died, and that her grandmother was ninety years of age when she died: That she was not very infirm in her old age for her time of life: Has not had any conversation with any person except her mother relative to these matters since the death of her grandmother: That witness's husband is a weaver. Interrogated for the *defender*, Whether she has ever heard her mother speak of the persons of the name of Alexander, whom she has mentioned in her deposition; to which question the *pursuer's* agent *objected*, in respect the witness's mother was alive. The Commissioner having heard the parties, repels the objection, and allows the examination to proceed, but to be written on a paper apart, to be sealed up, subject to the orders of the Lord Ordinary. Against which decision the pursuer's agent appealed to his Lordship.

(Signed) Rod. Mackenzie.
Jas. Clealand.

All which is truth, &c. Depones farther, that she cannot write.

SAMUEL BATTERSBY, weaver in Newton Ards, aged fifty years; who, being solemnly sworn and interrogated, as aforesaid, depones, That he heard from John Pew, clerk of the church at Newton Ards, some time since deceased, that the ancient parish registers of that parish were destroyed: That said John Pew told him so about twenty-six years ago. Interrogated, Whether he has ever heard his mother-in-law, Mrs Lewis, speak of John Alexander of Antrim? To which question the *pursuer's* agent *objected* as incompetent, in respect the witness's mother-in-law was alive. The Commissioner having heard the parties, allows the examination to proceed, and repels the objection, but to be taken on a paper apart, and sealed up, subject to the orders of the Lord Ordinary. Against which decision the pursuers' agent appealed to his Lordship.

(Signed) ROD. MACKENZIE.
JAS. CLEALAND.

All which is truth, &c.

(Signed) SAMUEL BATTERSBY.

What is contained on the eight preceding pages is the report of the commission mentioned in the first page hereof, so far as taken at Rathgael aforesaid. Humbly reported by

(Signed) JAS. CLEALAND, *Comr.*
ALEX. MONTGOMERY, *Clerk.*

At Belfast, the 12th day of January, in the year 1836.

Which day there was produced to me, Cortland Macgregor Skinner, Esq. one of his Majesty's Justices of the Peace for the county of Antrim in Ireland, the act and commission mentioned in the first page hereof, and diligence against witnesses and havers, dated the 26th day of November last; which commission I accepted of, and made choice of Alexander Montgomery, herein-before-named, to be my clerk, to whom I administered the oath *de fideli*, as use is,

Thereafter compeared parties' agents, *ut antea.*

Compeared the Reverend JAMES SEATON REID, doctor of divinity, of Carrickfergus, in the county of the town of Carrickfergus; who, being solemnly sworn and examined as before, depones, That he is clerk of the Synod of Ulster, and as such,

has the custody of all the records of the said Synod. Depones, and produces as a haver, volume first of the Records of the General Synod for 1691, 1692, and 1694, and from 1697 to 1710; and under the date, the 5th day of June, 1694, there occurs the following entry: "Roll called after prayer. From Down Presbytery, Mr Archibald Hamilton, moderator in Mr Legat's absence, Alexander Hutcheson, John Gawdy, John Hutcheson, Tho. Maxwell, John Mairs, John M'Bride, James Bruce, James Ramsay, Thomas Cobham, Henry Livingston, Alex. Gordon. Absent, Mr Geo. Lang, Mr Thomas Kennedy, Mr James Heron, Alex. Bruce, William Ambrose, Jo^{n} Hamilton." And being further examined as a witness *in causa*, depones, That he copied from a tombstone in the burying-ground of Drumbo, in the county of Down, the following inscription: "Here rests in the Lord, the body of that faithful and eminent servant of Christ, Mr Henry Livingston, who, after forty-two years' labour in the ministry of the Gospel in this place, did enter into the joy of his Lord, the 7th of April, 1697, and of his age the 66th year." And being further examined, depones, and reproduces as a haver the aforesaid volume of the Records of the Synod of Ulster, in which is the following entry, under date of the 1st day of June, in the year 1709: "Antrim Presbytery ordained Mr William Livingstone, at Templepatrick, March 30, Mr James Creighton, at Glenarm, May, 24, 1709:" And under date the 17th day of June, 1712, in a sederunt of Synod of that date, *inter alia* occurs the name of Will. Livingston, among the ministers of the Presbytery of Antrim: And under date the 27th day of June, 1759, there appears the following entry; "Templepatrick Presbytery report, *inter alia*, that Mr Livingston died the 1st day of Sep^{r} 1758." Depones, That on examination of the whole Synod records, the witness has not found the name of any other presbyterian minister of the name of Livingston in the county of Antrim, except Mr Livingston of Templepatrick above mentioned. All which is truth, &c.

(Signed) JAMES SEATON REID.

What is contained on this and the two preceding pages is the report of the commission before mentioned, so far as executed at Belfast aforesaid. Humbly reported by

(Signed) C. M. SKINNER, *Comr.*
ALEX. MONTGOMERY, *Clerk.*

At Dublin, the 20th day of January, in the year 1836.

Which day there was produced to me, Robert Hitchcock, Esq. one of his Majesty's Justices of the Peace for the county of the city of Dublin, the act and commission mentioned in the first page hereof; which commission I accepted of, and made choice of Oliver Caton Sherwood to be my clerk, to whom I administered the oath *de fideli*, as use is.

Thereafter compeared Ephraim Lockhart before mentioned, agent for the defender.

Compeared WILLIAM MADDEN, apothecary of James's Street, Dublin; who, being solemnly sworn and examined, *ut supra*, depones, That he is an elder of the Presbyterian congregation of Usher's Quay, Dublin: That he is one of four members of the said congregation who have the joint custody of the books and papers belonging thereto. Depones, That having got entire access to the said books and papers, he produces as a haver a small quarto manuscript book, titled "The Minuett Book belonging to the Session of the Congregation of Plunket Street Meeting House." Depones, That he has heard that the congregation of Plunket Street, Dublin, united, upwards of sixty years since, with the congregation of Usher's Quay aforesaid; and that the said book, which is deposited with the papers of the congregation of Usher's Quay, contains the following entries:

"*March* 29.

"Lord's day. Notice being given to the members of the congregation to attend to signe the call to Mr Alexander, they came into the vestrie and signed it in the presence of Mr Iredell.

"A copy of the Call.

"To the Rev. Mr Jo^{n} Alexander, at Stratford-upon-Avon, in England.

"We, the elders and members of the congregation in Plunket Street in Dublin, being, partly from our own knowledge, and partly from the information of others, satisfied of your ministerial abilities, good conversation, and qualifications

for being eminently usefull in this place, do hereby invite and call you to take the pastoral charge of us, and do promise you support, incouragement, and subjection in the Lord.

"It was certified by Mr Irdell, that this call was signed in an orderly manner, March 29, 1730.

"*Novr*. 12, 1730.

"The Rev. Mr Alexander was installed. Mr Hemphill preached the sermon. Mr Iredell gave the charge, and the ministers of Dublin being desired to concurr with our Presbytery, were present and joined in the instalment."

"*Novr*. 1, 1743.

"This morning our Rev. Minister, Mr John Alexander, departed this life. This evening our officers and a few of the congregation meet, and agreed that the congregation be applied to for the charge of the funnerell of our late minister, and that it shall not be a charge on Mrs Alexander."

All which is truth, &c.

(Signed) WILL. MADDEN.

What is contained upon this and the three preceding pages is the report of the said commission, so far as executed at Dublin aforesaid. Humbly reported by

(Signed) R. HITCHCOCK, *Comr.*
OLIVER CATON SHERWOOD, *Ck.*

At the House of Thomas Lee, Esquire, in Edgbaston, in the county of Warwick, the 16th day of June, in the year 1836.

Which day there was produced to me, Edward Lloyd Williams, Esq. one of his Majesty's Justices of the Peace for the counties of Warwick, Worcester, and Stafford, a principal interlocutory judgment, dated the 1st day of June instant, pronounced by Lord Cockburn, one of the Judges of the Court of Session in Scotland, granting commission to any of his Majesty's Justices of the Peace for the counties of Warwick and Worcester, in an action of reduction and improbation depending in the court aforesaid, in which the Officers

of State for Scotland are pursuers, and Alexander, Earl of Stirling, and others, are defenders; of which commission I accepted, and made choice of Richard Peyton of Birmingham, in the county of Warwick, gentleman, to be my clerk, to whom I administered the oath *de fideli*, as use is.

And appeared Josiah Corrie of Birmingham, solicitor, as agent for the defender, and Roderick Mackenzie of Edinburgh, W.S. as agent for the pursuers.

Thereafter appeared the said THOMAS LEE of Edgbaston, near Birmingham, in the county of Warwick, Esquire, one of his Majesty's Justices of the Peace for the county of Warwick, and for many years practising as an attorney and solicitor in Birmingham aforesaid, aged seventy-six years; who being solemnly sworn, &c. depones, That he has a perfect recollection of Abel Humphrys, formerly of Birmingham, deceased, and that he is acquainted with the character or manner of writing of the said Abel Humphrys, and has seen him write frequently, and he verily believes that the signature, Abel Humphrys, appearing at the foot of a paper writing shewn to the deponent, bearing to be the copy of a tombstone inscription on John Alexander, Esquire, is of the proper hand-writing of the said Abel Humphrys. Depones, That he also well recollects John Berry, formerly of Birmingham aforesaid, and is acquainted with his character or manner of writing, and has seen him write, and he verily believes that the signature, John Berry, appearing at the foot of the paper writing before specified, is of the proper handwriting of the said John Berry. Depones, That he knew Mr Humphry Lyttleton, who is stated to have copied the said inscription, and that he was an eminent attorney and solicitor, residing at Hales Owen, distant about seven miles from Birmingham. And all this is truth, &c.

(Signed) THOS. LEE.

Thereafter appeared THOMAS HORNBLOWER, of Birmingham, in the county of Warwick, gentleman, aged seventy-eight years or thereabouts; who being solemnly sworn, &c. depones, That he was well acquainted with Abel Humphrys, formerly of Birmingham, deceased; and being shewn the paper writing specified in the immediately foregoing deposition, at the foot of which appears subscribed the signature of the said Abel Humphrys, he believes and has no doubt that

the said Abel Humphrys, who was the deponent's uncle, was the identical person whose signature appears on the said paper writing, having seen him write. Depones, That Ann was the christened name of the wife of the said Abel Humphrys and the deponent's aunt-in-law, and her name before marriage was Ann Zouch. And all this is truth, &c.

(Signed) THOS. HORNBLOWER.

What is written on this and the two preceding pages is humbly reported as taken by the said Commissioner, and executed at the time and place first before written, by

(Signed) E. L. WILLIAMS, *Com^r.*
RICHARD PEYTON, *Clerk.*

At Birmingham, *eo. die.*

Present, the aforesaid parties, doers for the pursuers and defender, and aforesaid Commissioner and Clerk.

Thereafter compeared JOHN BERRY of Birmingham, aforesaid, late glass manufacturer, aged fifty-six years or thereabouts; who being solemnly sworn, &c. depones, That he was well acquainted with John Berry, formerly of Birmingham, deceased; and being shewn the paper writing specified in the foregoing depositions, at the foot of which appears subscribed the signature John Berry, depones, That such signature is of the proper handwriting of the said John Berry, who was this deponent's grandfather, and formerly kept his, deponent's books at his glass manufactory; and that he, the deponent, was constantly in the habit of seeing the handwriting of the said John Berry, deceased. And all this is truth, &c.

(Signed) JOHN BERRY.

The above deposition of John Berry is also humbly reported by the said Commissioner, and executed at Birmingham aforesaid, on the day aforesaid.

(Signed) E. L. WILLIAMS, *Com^r.*
RICHARD PEYTON, *Clerk.*

Inscription on my Grandfather's Tomb at Newton, copyd for me by Mr Hum. Lyttleton.

Here lieth the Body of
IOHN ALEXANDER, ESQUIRE,
Late of Antrim,
The only Son of the Honourable Iohn Alexander,
Who was the fourth Son of that most Illustrious
And famous Statesman,
William Earl of Sterline,
Principal Secretary for Scotland:
Who had the singular merit of planting at his
Sole expense, the first Colonie in
NOVA SCOTIA.
He married Mary, Eldest Daughter of the
Rev. Mr Hamilton of Bangor,
By whom he had issue one son, Iohn, who
At this present time is the Presbyterian Minister
At Stratford-on-Avon, in England,
And two Daughters,
Mary, who survives, and Elizabeth, Wife of
Iohn M. Skinner, Esquire, who died 7th Jan. $17\frac{10}{11}$,
Leaving three Children.
He was a Man of such endowments as added
Lustre to his noble descent, and was universally
Respected for his Piety and Benevolence.
He was the best of Husbands:
As a Father, most Indulgent: As a Friend,
Warm, Sincere and Faithfull.
He departed this Life
At Templepatrick, in the County of Antrim,
On the 19th day of April, 1712.

This leaf, taken out of poor John's Bible, is put up with the other Family Papers for my Son Benjamin.

Done this sixteenth day of December, 1776, in the Presance of my Friends and Mr John Berry, who, at my request, have Subscribed their names as Wittnesses. } HANNAH ALEXANDER.

ABEL HUMPHRYS. ANN HUMPHRYS. JOHN BERRY.

At the house of Thomas Lee, Esq. in Edgbaston, in the county of Warwick, the 16th day of June, in the year 1836.

This is the document referred to in our depositions of the above mentioned date.

(Signed) THOS LEE.
THOS HORNBLOWER.

This is the document referred to in my deposition, taken at Birmingham the 16th day of June 1836.

(Signed) JOHN BERRY.

At Newtown Ards, in the County of Down, the 29th day of June, in the year 1836.

Which day there was produced to me, John Andrews, Esq. one of his Majesty's Justices of the Peace for the aforesaid county, an act and commission, dated 26th November, 1835, since renewed, granted by Lord Cockburn, one of the Judges of the Court of Session in Scotland, in an action of reduction and improbation depending in that Court, in which the Officers of State for Scotland are pursuers, and Alexander, Earl of Stirling, and others, are defenders; of which commission I accepted, and made choice of James Burns, writing-clerk in Belfast, to be my clerk, to whom I administered the oath *de fideli*, as use is.

Compeared Ephraim Lockhart, writer to the Signet, as agent of the defenders.

Thereafter compeared MARGARET M'BLAIN, a witness formerly examined for the defenders; who being solemnly sworn and interrogated by and in the presence of the said Commissioner, depones, That her husband, James M'Blain, was a mason to his business, and while he was able for work, was extensively employed in the line of a mason and an undertaker of building generally, having a considerable number of workmen under him: That her said husband died six years past last February, but for almost ten years previously he had, by ill health and infirmities, been unable for work: That the deponent remembers that her husband, in particular, was employed in new flagging the floor of the old church at the east end of Newtown House here, and that after that work was finished, he stated to the deponent that he had been that day upon various graves, and he particularly mentioned the grave of Lady Mount Alexander, with whom the

deponent had lived several years in her youth: That the deponent's husband further stated to her, that there was a tombstone just alongside of the tombstone of Lady Mount Alexander, with the name, John Alexander, Esq. Antrim, upon it: That it was a part rather of a tombstone, which was broken in two or three parts, and upon the different parts there appeared the remains of an inscription of some length, and she understood from her said husband, that the part having the words, John Alexander, Esq. upon it, was the head, or upper part of the stone: That her said husband also told the deponent, that Alexander Patterson, one of the churchwardens of the aforesaid church, some time since deceased, suggested to him to have the said upper part of the stone raised from the floor, and built into one of the walls of the church, for its better preservation, and it was built into the wall accordingly. Being interrogated, How long, according to the best of the deponent's recollection, it is since the new flagging of the church floor above mentioned took place, depones, That it is upwards of forty, and not more than forty-four years since. Interrogated, Whether she remembers the name of Lady Mount Alexander, with whom she lived at Donaghadee? depones in the affirmative, and that it was Mary Angelica Delacherois, otherwise Greuber, having heard her Ladyship tell it many a time. All which is truth, &c. Depones that she cannot write.

Eleanor Battersby, formerly Lewis, also a witness examined before for the defenders; who being solemnly sworn and interrogated as aforesaid, depones, That she knew the now deceased Andrew Kelly, coachman to the first Marquis of Londonderry, and he told the deponent that he heard Richard Monk in Newtown Ards say, that he attended the funeral of Mr John Alexander of Antrim, in Newtown Ards church: That the said Richard Monk was grandfather by the mother's side of the deponent's mother, Mary Lewis, formerly Hamilton, who is still alive, but, from old age, is incapable of attending the Commissioner, and giving evidence before him. And all this is truth, &c. and depones she cannot write.

Samuel Battersby, a witness also examined before for the defenders; who being solemnly sworn and interrogated, and being desired to look at a writing, bearing to be a letter addressed to the defender's agent, and dated 'Newtown Ards,

'9th June 1836,' depones, That the signature at the bottom of the letter, 'Charles Campbell,' is of the proper handwriting of Charles Campbell, architect in Newtown Ards, the deponent having seen him, the said Charles Campbell, sign the said letter: That the Commissioner observes a blot or erasure of what appears to have been a word interlined between the 5th and 6th lines from the bottom of the letter; and the deponent being interrogated if he knows that there was a word there inserted, and now delete, he depones, That there was, and the word was 'think,' thereby reading, 'think I 'recollect:' That upon the occasion of a conversation between the said Charles Campbell and the defender's agent, upon the evening of the 24th June instant, in the presence of the deponent, the said Charles Campbell, alluding to the interlined word, 'think,' observed, 'What I think I recollect I 'do recollect,' and there was no occasion for him inserting 'think I recollect.'

(Signed) SAMUEL BATTERSBY.

WILLIAM HERDMAN, teacher in Newtown Ards; who being solemnly sworn *ut supra*, and interrogated, depones, That he knows Charles Campbell, named in the foregoing deposition, and was present likewise at the conversation therein specified, and concurs *in omnibus* with the immediately preceding witness, so far as regards the observations which the said Charles Campbell made upon the occasion of the conversation referred to. All which is truth, &c.

(Signed) W^m^. HERDMAN.

What is contained on this and the five preceding pages is the report of the commission mentioned on the first page hereof, so far as taken at Newtown Ards aforesaid. Humbly reported by (Signed) JOHN ANDREWS, *C.*
JAMES BURNS, *Clerk.*

CERTIFICATE of Matriculation of JOHN ALEXANDER.

"Nomina Discipulorum Tertiæ Classis, qui hoc anno Academiam ingressi fuerant sub præsidio Magistri Gerschomi Carmichæl, Mart. 3. 1701."

(Inter alios.)

Benjamin Smith,	Ang. Hib.
David Uri,	Sc. Hib.
William Glen,	Scot. Hib.
Henricus Batty,	Angl. Hib.
Jac. Lawrie,	Sc.
Jac. Stewart,	Scot. Hib.
Johannes Alexander,	Scot. Hib.

That the above is a true extract of an entry and names contained in a volume entitled, "Album Universitatis Glasguensis," is certified at Glasgow College, this twenty-third day of January, 1836, by me,

WILLIAM MEIKLEHAM Jr. *Cler. Coll.*

STATEMENT by WILLIAM GORDON.

In the Genealogical Essay, No. 1, I have shewn ye descent of the noble family of Alexander of Menstry, from Alexander Macdonald, second son of Donald, King of ye Isles; which Donald was the grandson of Somerled, the first of his race who assumed the regal dignity anno 1156. In the Synoptical Review of Property, No. 2, I have distinguished the estates acquir'd by ye marriage of the present Earl's grandfather with ye heiress of Sir Peter Vanlore, from ye antient estates, wh, by the charter of 1639, are made to descend with the Earldom. I now come to mention those particulars wh I have collected from ye publick records and other sources in this country, touching patents and charters of creation to ye titles confer'd on Sir William Alexander.

1°. Sir William was created Baronet of Nova Scotia, wth a particular clause of precedency, from 21st May, 1625, by patent "to him, heredibus suis et assignatis quibuscunque,"

and obtained a grant in the same terms of y^e^ Lands and Barony of Nova Scotia, 12th July, 1625.

2°. He was created Viscount of the Town of Stirling, and Lord Alexander of Tullyebodie, by patent, dated Sept^r^. 4, 1630, "sibi et heredibus suis masculis cognomen et arma de Alexander gerentibus."

3°. He was raised to y^e^ dignity of Earl of Stirling, Viscount of Canada, and Lord Alexander of Tullyebodie, by patent, dated 14th June, 1633, "sibi suisque heredibus masculis imperpetuum cognomen et arma de Alexander gerentibus."

4°. Being under great dejection of spirit after losing three of his sons, who had given him the brightest hopes, and fearing, from the declining state of health of two of y^e^ survivors, that his honours might, at no dist^t^ period, pass to a collateral branch of his family, the noble Earl did make a resignation of his titles and estates, into the King's hands, who, by charter under the G^t^ Seal, bearing date 7th December, 1639, was graciously pleased to confer them *de novo* "upon him and the heirs-male of his bodye; which failing, to y^e^ eldest heirs-female, without division of y^e^ last of such heirs-male hereafter succeeding to the titles, honours, and dignities aforesaid, and to the heirs-male to be procreated of the bodys of such heirs-female respectively, bearing the sirname and arms of y^e^ family of Alexander, which they shall be holden and obliged to assume; which all failing, to the nearest legitimate heirs whatsoever of the said William, Earl of Stirling, with the former precedency."

[*Note.*—I have not met with this charter in our publick records, but from a marginal reference to y^e^ 57 volume of y^e^ Reg^r^ of the G^t^ Seal, w^h^ I noticed while I was taking the foregoing clause of limitation from Mr Ja^s^ Hay's transcript, I am led to conclude that the charter was entered in a part of that vol. where several leaves now are wanting. Be my conjecture true or false little importeth however, since the original charter is at this time in the possession of Tho^s^ Conyers, Esq. of Catherlough, in y^e^ kingdom of Ireland, who will no doubt let you have inspection thereof, and, for aught we know, may further be willing to give it up to you, as it can be of no use to him.]

To what is herein written I have now only to add the style of y^e^ present Earl, as followeth:

The most noble and puissant Lord, Henry Alexander, Earl of Stirling, Viscount of Stirling and Canada, Lord Alexander of Tullyebodie, and Baronet of Nova Scotia.

For description of the arms, see No. 4.

W. G.

Edinb. Jan. 14, 1723.

(Quoted on the back, in the handwriting of the Rev. John Alexander.)

No. 3, *from Mr W. Gordon.*
Edin. 14. *Jan.* 1723.
Rec^d 27*th.*

I have compared the limitations copy'd on the other side in English by Mr W^m^ Gordon, with those contained in the original charter of 7th Dec. 1639, at present in my keeping; and for Mr Alexander's satisfaction I do hereby certifie, that the said W^m^ Gordon has given a true and faithful translation of the clause by which the estates and titles of Lord Stirling are limited, in the aforesaid charter, to descend to the heirs therein mentioned.

Witnesse my hand, this 10th day of July, 1723,

Tho^s^ Conyers.

Original Letters, the Reverend John Alexander and Mrs Hannah Alexander, his Wife, to Mr Benjamin Higgs, at the Reverend Mr Cole's, near the Southgate in Glocester.

Dear Bro^r^,

It is with great satisfaction that I can now call you bro^r^, upon another account than our common Xtianity and ministerial character; for I am now to let you know, that your sister and I have at last accomplish'd the affair that was so long in dependence, and were marry'd privately at Hartlebury, last Tuesday, being the 8th instant. I am very sensible of my great happiness in having such a relative every way desirable; and I adore the kind providence of God that has favour'd this design, and bro't us thro' some difficulties that lay in the way. We both desir'd your company, but tho't best, for the sake of greater privacy, to defer requesting that

favor 'till the ceremony was over: and now my dear spouse joins with me in requesting a visit, as soon as may consist with convenience. If it should happen to be inconvenient next week, we shall write to you again, as soon as we can fix a time for settling some affairs between you and my dear; and you'll have less fatigue if you give us the meeting at Evesham, and allow yourself time to return hither with us, that we may enjoy your company a while. I bless God we are both in good health, and desire you w^{d} assist us with your prayers, that God would vouchsafe his blessing to us in our new relation, and grant us his presence and favor in all our motions. May the good Sp^{t} of God rest upon you, and the blessing of God attend you in all your studies and labors. I remain, with all due resp^{t}, D^{r} Bro^{r}, your affectionate Bro^{r} and humble servt.,

Jo. Alexander.

Stourbridge, Aug. 11. 1732.

My service to Mr Cole, whose prayers I request, and to his spouse, with all fr^{ds} there.

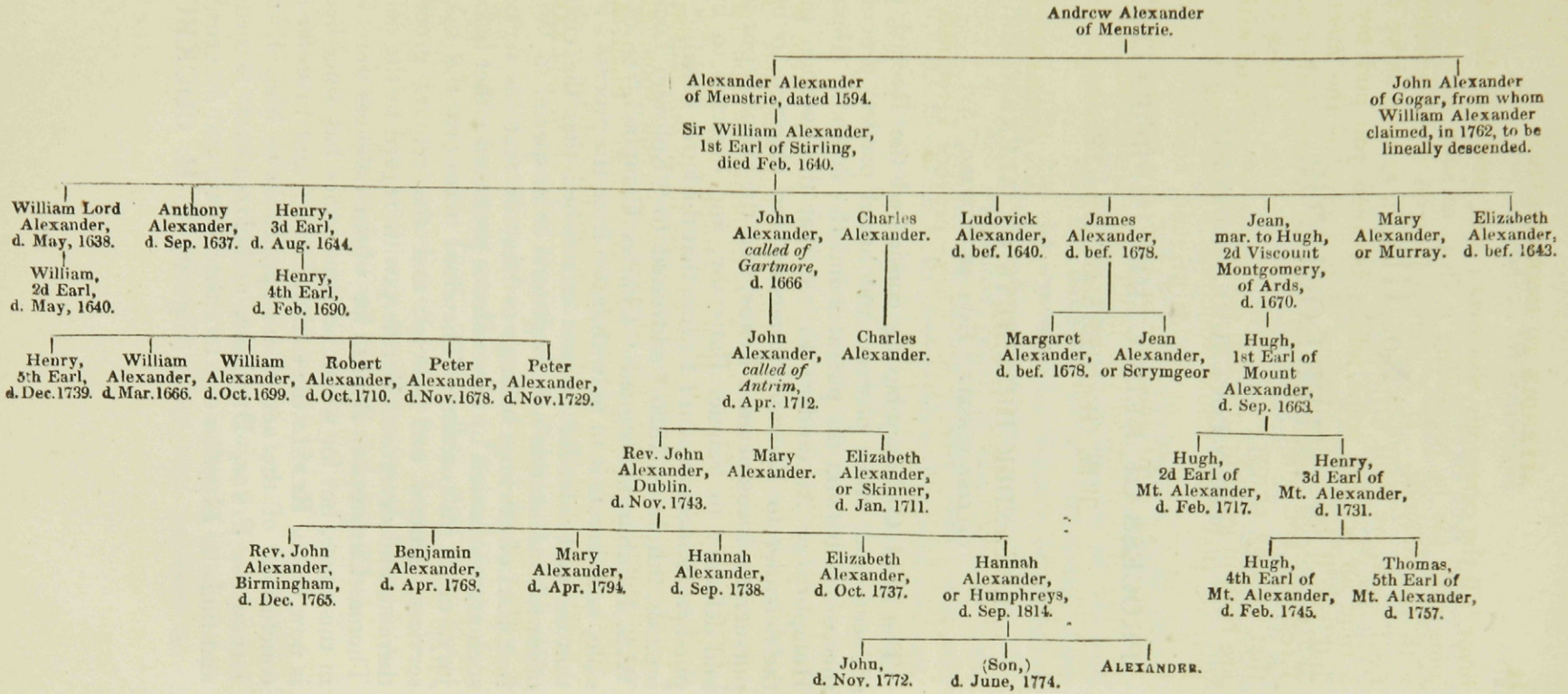
Dear Bro.,

I could not be easy without adding two or three words to excuse for not answering your kind letter sooner. I began more y^{n} once to write, but being so thoughtfull about entering into this new relation, it much disordered me; but I bless God am better, and hope it will be to all our satisfaction, if God afford his blessing. If you dont come soon, give us a line. I wish for your company to Dublin. Shall say more when I see you. I am your affectionate sister,

Han. Alexander.

Service to y^{e} family.

SKETCH OF DESCENTS FROM WILLIAM, FIRST EARL OF STIRLING.



No. III.

INTERLOCUTOR

BY

LORD COCKBURN, ORDINARY,

IN THE

PROCESS OF REDUCTION IMPROBATION,

THE OFFICERS OF STATE

AGAINST

ALEXANDER HUMPHRYS OR ALEXANDER,

CALLING HIMSELF "EARL OF STIRLING," &c.

The Lord Ordinary having considered the Record, proof adduced, and whole process, and heard parties' procurators thereon, as betwixt the pursuers and the defender Alexander Humphrys or Alexander; FINDS, that the question put by the defender to Eleanor Battersby, and objected to by the pursuers, is incompetent: FINDS, that the question put by the said defender to Samuel Battersby, and objected to by the pursuers, is incompetent: FINDS, that the letter dated, "Newtonards, 9th June, 1836," addressed to "Ephraim Lockhart, W.S. Edinburgh," signed "Charles Campbell," is inadmissible, and directs it to be withdrawn from the process: FINDS, that the said defender has not established that the character of lawful and nearest heir in general or in special to William, first Earl of Stirling, belongs to him, or that his services as such are warranted by the evidence produced either before the jury, or in this action: Therefore REDUCES the said two services, general and special, and the retours proceeding thereon, and decerns. Further, with regard to the defender Thomas Christopher Banks, for whom defences were lodged in this cause, but for whom no appearance has since been, or is now made, REPELS the said defences: and in so far as the conclusions of the action are applicable to him, REDUCES, IMPROVES, FINDS, DECERNS, and DECLARES accordingly; and finds no expenses due to either party, and decerns.

(Signed) H. COCKBURN.

NOTE. — The object of the action is to set aside two services —one general and the other special, which have been obtained by the defender, designed in the defences as Earl of Stirling, and to have it found and declared that this person is not the nearest and lawful heir, either in general or in special, to William, the first earl of Stirling, who died in February 1640. The discussion before the Lord Ordinary was restricted *hoc statu* to the reduction of these services, without following this out to all the consequences which the summons asserts that this reduction ultimately leads to.

The defender states that he is the great-great-great-grandson of the first Earl of Stirling; and he explains the successive steps of his descent to be, that he is the son of Hannah Alexander; who was the daughter of the Reverend John Alexander; who was the son of John Alexander, called of Antrim, in Ireland, because he at one time lived there; who was the son of John Alexander, called of Gartmore, in Scotland, because he married the heiress of this estate; who was the son of the first Earl. In stating this pedigree he assumes, and the pursuers concede, that in a question of service, under the law of Scotland, he is not bound to prove the failure of all intermediate heirs; but that unless the existence of some prior heir be established, or at least pointed out, by the pursuers, it is enough for him to shew such a relationship as, in the absence of such known or indicated heir, leaves the right in him.

The pursuers do not question that he is the lawful son of Hannah Alexander, nor that this lady was the daughter of the Reverend John Alexander, who is said to have died in 1743. But there are two descents between this last person and the first Earl, and they maintain that neither of these is established. They deny it to be proved that the Rev. John Alexander was the son of John of Antrim, who is said to have died in 1712; or that this John of Antrim was the son of John of Gartmore, who is said to have died in 1666. *The whole of the defender's case depends upon the genuineness of these two descents.*

The evidence as to both may be taken together, for it is much interwoven, and its force or its weakness depends upon the same principles.

The pursuers refer to a charter, which shews that the first John Alexander had married Agnes Graham, "*filiam et hæredem quondam Roberti Graham de Gartmore.*" It was in consequence of this that he was sometimes called John of Gartmore. They also produce an

Jan. 23, 1636.

July, 1646. appraising, which shews that a daughter called Janet was the heir of this marriage; because her deceased uncle Gilbert Graham, having got into debt, she had been charged to enter heir to him; and the lands "*are aprysit fra her as sister dochter, and lawlie chargit to enter air foresaid, to her said umquhile uncle, and fra Jon Alexander of Gartmore, her fayr, as tuter, gyder, and admr. to her of ye law.*" She could not be the heir in heritage of her uncle if she had a brother.

This fact, viz. *that the heir of the first John Alexander's marriage with Agnes Graham of Gartmore was a daughter*, renders it even more necessary than it was from his position in the cause, that the defender should establish, that although he had no son in 1646, the date of this appraising, he had one afterwards; and accordingly, he does maintain that this person contracted a second marriage, and became the father of John Alexander, called of Antrim, who, in his turn, became the father of the Rev. John Alexander.

It is a very serious defect in the defender's case, that of this alleged *second marriage there is no proof whatever*, except that which is implied in the evidence of his afterwards having a son. He was in a station of life which made any marriage of his not obscure; yet the fact of his being married for a second time, is not even attempted to be established by any direct or separate evidence, but is made a mere inference from the supposed circumstance of his appearing as the father of a male child.

The proof of the filiation of the two Johns, consists chiefly of the following three articles:—1*st*, Two affidavits, one by Sara Lyner, and one by Henry Hovenden. 2*d*, Of an alleged inscription on a tombstone, in Newtonards, in Ireland. 3*d*, Of the examination of certain witnesses, chiefly Margaret M'Blain and Eleanor Battersby.

First, As to the Affidavits, one of which is dated in 1722, and the other in 1723. The Lord Ordinary is very strongly inclined to think, that even assuming them both to be genuine, they are altogether inadmissible.

They are not alleged to contain the statements of *any member of the family*, who must have known the facts, but proceed from mere *strangers*, of whose cause of knowledge we know nothing. They were not taken in this cause; neither were they taken in any known judicial proceeding; or before any party opposing, or entitled to oppose; or in any circumstances with which we are in the slightest degree acquainted.

Every thing shows that they were taken, not *post litem*, but *post controversiam, motam.* So far as now known, they may be voluntary affidavits, concocted either for the purpose of sustaining this pedigree, or for some other purpose interesting to the person who devised them.

It has been argued, that they are at least as admissible as evidence of what those who made them, or any other dead person, said, would be; or as clauses in deeds, inscriptions on rings, entries in books, family pedigrees, and such things, are. But it is not so. These, and all the other things to which affidavits such as these are compared, are received, because when honest, they form parts of real and known proceedings,—or occur where opposite interests probably arise,—or record natural feelings and events, in a natural way, and on natural occasions. These things owe their credit to their simplicity, — to their accordance with the general course of life, — to the absence of any preparation, or of any motive to prepare, for a future object. But the prospective manufacture of evidence, in the form of written statements, calculated to establish particular facts, are only rendered the more suspicious by their being made to assume a judicial appearance. Fractures in links of descent are better known, and their consequences are generally better foreseen, by the party interested, at the time they occur, than they can be long afterwards; and to what danger would the law and future families be exposed, if this party were allowed to obtain and store up *ex parte* affidavits, or other artful written statements, on these subjects, and Courts were obliged to receive them after every possibility of checking them was extinguished? These documents, and much of the other evidence in this case, shew that *somebody* was uneasy about this pedigree even in 1722, and was trying to correct its defects.

But the Lord Ordinary has not absolutely rejected these affidavits, partly because, after all, there may be some doubt of their competency in a question of pedigree, and partly because their admission makes no difference in his view of the result; and he is unwilling to rest his judgment on a ground which may be removed. For the question, as to their credit and efficacy, remains.

The affidavit of Sara Lyner bears to have been taken before a person called Jonas Percy, described, *but not proved*, to have been an officer of Chancery in Ireland; it is only subscribed by the alleged deponent's *mark.* A person called George Stone also subscribes; but it scarcely appears

in what capacity; for Percy merely attests, "*I know* the above voucher, George Stone;" but his happening to be an acquaintance of this Mr Percy is very unimportant, and he does not himself say that he intended to vouch any thing. It is difficult to imagine any document introduced into a cause with fewer recommendations.

The affidavit of Henry Hovenden is a little better in one respect, and a great deal worse in another. It bears to have been taken before a person of the name of Pocklington, who, (though it be not otherwise proved,) was admitted by the pursuers, at the debate, to have been a Baron of Exchequer in Ireland at the time. It is signed by Hovenden, whose signature bears to be attested by a notary public. All this is respectable enough.

But it is said by the pursuers, that the paper on which the body of the affidavit is written, had previously been covered by some other writing; that it was this original writing which was sworn to before Baron Pocklington; and that that original has been removed chemically, and the existing affidavit inserted in its place above the signature.

The evidence of this charge of fabrication, (which is not directed against the defender personally,) consists of the appearance of the paper, and of the *uncontradicted testimony* of Dr Fyfe and Dr Gregory, two chemical gentlemen of undoubted character and skill. The Lord Ordinary is very unwilling to hold this painful charge to be legally established; and therefore, he carries the result no farther than this, that the paper is exposed to a degree of suspicion which makes it unsafe to rely on this document.

However, let the genuineness of both affidavits be assumed, —what do they establish?

Lyner was 84 years old when she deponed. She states, that the Rev. John Alexander was the son of John of Antrim; and this part of her statement rests on rational grounds; because she says, that she was twenty years in the family of the latter, and was present at his marriage, and nursed his wife after the Rev. John was born. But her testimony as *to Antrim, being the son of Gartmore,* is by no means so satisfactory. All that she says on this subject, is that her mother was for some time in the service of Lord Mongomery, in the county of Down, 'and while there, *(no date given,)* Mr John 'Alexander of Gartmore, a son of the Lord Sterline in 'Scotland, came to see my Lord, and *brought with him* '*his ounely son.*' She then says, that this only son was John of

Antrim. Now, the whole of this statement depends upon the facts, that John of Gartmore took a person with him to Ireland, and that this person was his son. But on these points, there is nothing beyond the mere unexplained assertion, or conjecture, of this solitary witness, '*that he brought with him his only son.*' As the alleged son, if he ever existed, was obviously born in Scotland, where this woman does not say that she ever was, it does not appear on what authority he was held to be a son of the person who appeared with him. It rests entirely upon the witness calling him so.

Hovenden's affidavit is chiefly occupied by an account of a translation made by him of an alleged charter; and all that he says about the pedigree is, in the following introductory sentence: 'That he is intimately acquainted with the 'Rev. minister John Alexander, *grandson, and only male re-* '*presentative of John Alexander of Gartmore, the fourth son of* '*William, first Earl of Stirling, in Scotland; which said John* '*Alexander was formerly of Antrim.*' This is liable to the same observation with the last document. It merely contains the general assertion of the deponent; who no doubt describes the pedigree agreeably to the wishes of those who made him take the affidavit, but states no circumstance to warrant his opinion.

Second, Tombstones have sometimes gone far to decide pedigrees; but probably none was ever founded on in circumstances like the one relied on by the defender.

The stone itself confessedly does not exist. But a copy of the inscription which is said to have been upon it is alleged to have been inserted in a Bible. But the Bible confessedly does not exist. All that is produced is, a piece of paper, which is said to have been a page of the Bible on which a copy had been made.

Now, the only evidence of this page having been a part of the Bible, consists of the signatures of four persons,—one a member of this family—one an attorney—the third, his wife, and the fourth, the clerk of a glass manufacturer. These persons attest, that '*this leaf, taken out of poor John's Bible, is* '*put up with the other family papers for my son Benjamin. Done* 'this 16th day of December 1766, in the presence of my 'friends, and Mr John Berry, who, at my request, have sub-'scribed their names as witnesses.'

The inscription thus copied into the book, and thus cut out of it, is very strong in the defender's favour: *as strong as if it*

had been composed for this very case. But as a piece of evidence it is liable to great objections.

The alleged entry was confessedly *not in the hand-writing of the person to whom the Bible belonged.* It bears to have been copied for him by a stranger. Then there is no evidence whatever of the accuracy of the transcription from the tomb. The leaf begins with these words ‘ Inscription on my grandfather's tomb at Newton, copied for me by Mr Hum. Lyttleton.’ But *this Mr Humphrey Lyttleton attests nothing.* Neither is there any person who professes to have any knowledge as to the accuracy of this copy; for *even Lyttleton's hand-writing is not proved.* Moreover, there is no proof, except by the signatures of those four persons, that the writing on the leaf was of the tenor now exhibited, or that it was truly taken from that book.

If all this had been the ordinary course of such domestic records, these signatures might have been satisfactory. But it is no part of the usual uses of a Bible to receive copies of inscriptions. Entries in family Bibles are admitted as evidence, because they record solemn incidents, unsuspiciously, in an usual way. But is any respect due to an extraordinary proceeding like this, when the original book, with all its memoranda, is not exhibited — when the detached page, said to have been taken from it, is accompanied by signatures and attestations which shew that those engaged in cutting it out were aware that its separation from the book would deprive it of the credit due an original writing in a book belonging to the family, and where no good reason has been assigned for its excision; for if the object had really been to preserve this inscription with the other family papers, it is difficult to understand why the original and unmutilated book itself was not put up with them.

All this is stated on the assumption, that the words of the proof warrant no inference except that the leaf originally formed *part* of the Bible, and was cut from it If, however, the fact be supposed to be, that it never formed part of it, but was only *a loose bit of paper* put within the leaves; it is obvious that this would present a still harder case for the defender to grapple with.

The defender attempts to corroborate the copy, by proving that there really was such a tombstone. But his evidence on this point consists merely of the testimony of Margaret M‘Blain, a pauper aged 80. And the substance of what this person says is merely, that her deceased husband, who was a mason,

told her, about forty or forty-four years previous to the time at which she was examined, that when he was new flagging the floor of the Old Church, he had seen the grave of a Lady Mount Alexander, and 'that *the deponent's husband farther stated* to her, that there was a tombstone just along side of the tombstone of Lady Mount Alexander, with the name "John Alexander, Esq. Antrim, upon it." That this stone was broken, and that he *built it into one of the walls of the church for its better preservation.*' *According to this, the stone was visible and safe in the wall in the year* 1792. If so, the fact could surely have been better established than by the hearsay evidence of this solitary witness. And, after all, she speaks merely of a stone with the mere name of John Alexander, Esq. of Antrim, upon it, which certainly does not identify it with the John Alexander in question.

But this evidence is disproved. James Dalziel and David Dalziel, stone cutters employed about this very church, say that they never saw such a stone. Mr Cassidy, the clergyman, who has been constantly there for the last twenty-seven years, not only never saw it, but "being shewn the inscription alleged to be a copy of that on the tombstone of John Alexander, *is quite positive* that no grave-stone in the vestibule, or chapel, bore any such inscription.' It is true, that his twenty-seven years only carry us back to the year 1808, and that M'Blain spoke of part of the stone as standing in 1792. But Mr John Turnly and Margaret M'Cully go back each to the year 1765, when they were born; and though they were in the constant habit of being about this church, they are both positive that no such inscription ever was there. M'Cully 'being shewn a copy of the alleged inscription on John Alexander's tomb, depones, that she never saw any such tombstone bearing such inscription, and *is certain, that if any such existed, she must have seen it. Depones, that she is herself a Montgomery, and curious about the family history; and is certain, that a stone of such size, as to bear so long an inscription relating to any member of the Alexander family, would have attracted her notice. Depones, that she has resided all her life in Newtonards.*'

THIRD, the defender's object *in examining Margaret M'Blain and Eleanor Battersby* was to shew, that independently of the affidavits, and of the tombstone, the filiation of the two John Alexanders was known and believed upon other grounds. Both of their statements are certainly to this effect; but con-

fined as this branch of evidence is to these two witnesses, it is any thing but strong.

For M'Blain, who was born in 1755, does not profess to know any thing of the facts herself. She merely repeats what she says, that the last Countess of Mount Alexander *told her*. Now, when these statements were made by the Countess, the witness says, that she herself could not have been older than fourteen or fifteen; and as she was eighty when she was examined, they must have been made about sixty-six years before. What reliance can be placed on the recollection of a child, as to names and relationships, uttered casually in her presence sixty-six years ago? Then the person from whom she gets this hearsay, was born, according to this deposition, in 1707; yet she speaks of John of Gartmore, who, the defender says, died in 1666, and of his alleged son, John of Antrim, who is said to have died in 1712. This lady, moreover, was a foreigner, and probably never heard of these families till she grew up, which increases the distance between her and the facts. No wonder that all that is got from the witness, in these circumstances, is the abstract fact, that the pedigree is as the defender states it.

Battersby's source of knowledge is still more remote. She was fifty-one when she was examined, and was twelve or thirteen when her grandmother died; so that she could learn nothing from her grandmother short of thirty-eight years before, and when she was almost a child. Nothing that her grandmother could have said, even of her own knowledge, could be well authenticated by such a witness. But her grandmother said nothing of her own knowledge. All that the witness states, is, that she "*has heard her grandmother say that she heard her father say*, that the said John of Antrim *was* COME *of the Alexanders from Scotland, and was* NEARLY *related to the Earl of Mount Alexander in Ireland. Heard her grandmother also say, that she had heard from her father*, that John of Gartmore was the Honourable John Alexander, and was the father of John of Antrim." It is needless to consider what would be the weight due to the father's bare assertion; for this hearsay of a hearsay does not admit of being weighed.

On the whole, the Lord Ordinary is of opinion that the evidence, whether considered in its separate parts, or as a whole, is utterly insufficient to sustain the verdicts. And it is impossible not to be struck with the number of collateral facts, by which, if the claim be well founded, the proof might have

been strengthened, but in which there is a total absence of evidence.

The defender maintained, upon the authority of the case of Bell, as reported by Mr Murray, (vol. 2, p. 130,) that he being in possession of the service, and not opposed by any competitor for the character of heir, had nothing to do but to exhibit his retour, unless a case was made out against him, by positive evidence on the part of the pursuers; or in other words, *that the mere insufficiency of the defender's proof, was no ground for setting the verdict aside.* The Lord Ordinary does not recognize this doctrine. Bell's was the only case, he is aware of, in which the reduction of a service was referred by this Court to a jury, as an ordinary action of reduction. *Happening to be dealt with in this way*, the doctrine ascribed to the Judges who tried it may have been proper. But when verdicts in services, *and especially in ex parte services*, are reviewed by this Court itself, the Lord Ordinary understands the principle to be, that the Judges must themselves be satisfied of the validity of the evidence, and that its inadequacy to support the verdict is of itself a legal ground for reducing it.

H. C.

No. IV.

SECOND DIVISION.

NOVEMBER 27, 1837.

MINUTE,

ALEXANDER, EARL OF STIRLING.

AGAINST

OFFICERS OF STATE

Edinburgh, 15th November, 1837.—The Lords allow the Minute to be given in as craved.

(Signed) D. BOYLE, *I.P.D.*

MINUTE

FOR

ALEXANDER, EARL OF STIRLING, *Defender;*

In the Process of Reduction Improbation at the Instance of

THE OFFICERS OF STATE, *Pursuers.*

In this case, which is a process instituted by the Officers of State, for the purpose of reducing the services of the defender to his great-great-great grandfather, William, the first Earl of Stirling, a proof was allowed to both parties. The term was circumduced of this date; and the Lord Ordi-
Nov. 23, 1836. nary, after hearing parties, decerned in terms of the reductive conclusions of the summons.

In a note subjoined to that interlocutor, his Lordship stated, that "there are two descents in the defender's pedigree, and the pursuers maintain that neither of these is established. They deny it to be proved, that the Rev. John Alexander was the son of John of Antrim, who is said to have died in 1712, or that this John of Antrim was the son of John of Gartmore, who is said to have died in 1666." His Lordship was pleased to add, that "the whole of the defender's case depends upon the genuineness of these two descents."

The defender has lately come to the knowledge of various documents, which tend very materially to strengthen the evidence of propinquity, in regard to the two descents referred to by the Lord Ordinary. By these newly discovered documents, he trusts he will be able to establish, that John Alexander of Gartmore, after he lost his wife, Agnes Graham, heiress of Gartmore, married, as his second wife, Elizabeth Maxwell of Londonderry, by whom he had an only son, John, and that he died at Derry in 1665-1666: That this John Alexander, the son of John of Gartmore, received his early education at Londonderry: That he was afterwards sent to a German university, and that after living many years abroad, he settled at Antrim: That he married Mary Hamilton of Bangor, by whom he had one son, named John, and two daughters; and that he died at Templepatrick, 19th April, 1712, and was buried at Newtown: That Mr Livingston, an old friend of the family, wrote the inscription to his memory which was on the tombstone at Newtown-Ards, and that Mr Littleton's copy of it was known in 1765: That the said John Alexander of Antrim had encouraged the taste of his son for the ministry of the Church of Scotland, and that the said son, who was the Rev. John Alexander, died at Dublin, 1st November, 1743.

With reference to the evidence by which these facts can be instructed, the defender has to submit the following statement:—

1. That, of this date, a paper packet, addressed to Messrs De Porquet and Cooper, booksellers, 11, Tavistock Street, Covent Garden, London, who are employed by the defender as his publishers, was received by them by the twopenny post, accompanied by a card in the following terms:—"Mrs Innes Smyth's compliments to Messrs De Porquet and Co. She had fully intended calling April 21, 1837.

in Tavistock Street when she arrived in town yesterday from Staffordshire; but another commission she had to execute having prevented her, she is induced to send the enclosed packet to them by the twopenny post, with her particular request that they will forward it *instantly* to the Earl of Stirling, or any member of his Lordship's family whose residence may be known to them. HACKNEY, *April 19th.*"

2. That Messrs De Porquet and Co., on receipt of this parcel, forwarded it to one of the defender's sons then in London, who, in the defender's absence, resolved to have it opened in the presence of a notary-public: That it was accordingly opened in presence of a notary, of this date, and was found to contain a parchment cover or packet, sealed with three seals, and enclosed in an envelope, containing the note, No. I. of the Appendix.

April 22. 1837.

3. That this parchment cover or packet had the following marking on the outside:

"Some of my Wife's
Family Papers."

That it was opened in presence of Thomas Blake, Esq. proctor of Doctors Commons, and other witnesses, and was found to contain the five documents, Nos. II. III. IV. V. VI. of the Appendix.

4. That the above-mentioned marking on the outside of the parchment packet is in the handwriting of the defender's late father, Mr Humphrys, and that the pedigree or genealogical tree, No. II. is supposed to have been reduced and written by Thomas Campbell.

5. That the documents, Nos. III. and V. are letters from Dr Benjamin Alexander, son of the Rev. John Alexander, who died at Dublin in 1743, to his brother, the Rev. John Alexander, Birmingham, and to his mother, and that they are in his handwriting, as can be easily instructed by other letters written by him: That the document, No. IV. is a letter from Mr A. E. Baillie to the Rev. John Alexander, Birmingham, bearing that he had attended the funeral of Mr Alexander's grandfather, (Mr John Alexander of Antrim,) and containing other information connected with the family. The defender has hitherto been unable to discover the history of Mr Baillie, the writer of this letter. There is, however, a Mr Baillie referred to as a friend of the family, in some of the correspondence about this period.

6. That the seal with which this parchment packet was sealed is precisely the same with that upon another document, already in process, viz. the original letter from the Rev. John Alexander, the defender's grandfather: That the impressions on both must have been made with the same seal.

7. That in consequence of the cession, as is alleged, of Nova Scotia to France, by the Treaty of Breda, in 1667, and its subsequent recovery by Great Britain in 1690, and in consequence of the stipulations in regard to it in the Treaty of Ryswick, in 1697, every thing connected with the possession of that country became a matter of much interest at the Court of France. The grants to the Earl of Stirling thus came to be well known, and the effect of them much canvassed. That, influenced by these considerations, the defender was induced to direct anxious searches to be made in France for any documents that might throw light on the history of the family of Stirling: That in the course of the last summer, the defender acquired knowledge of an ancient map of Canada, containing on the back of it certain documents concerning his family: That the map is dated in 1703, and that all the documents, Nos. VII. VIII. IX. X. XI. XII. XIII. XIV. annexed in the Appendix, are either written or pasted upon the back of it: That the defender, of this date, July 12. 1837. received information of the existence of this map from Mad^lle^ Marie Anne Le Normand, an authoress of some note, who keeps a library in Paris, and possesses a considerable collection of unpublished manuscripts.

8. That it appears from these documents, that a Monsieur Mallet wished to obtain information in England as to the actual state of the descendants of William, Earl of Stirling; but that having died suddenly, one of his friends, a Monsieur Brossette, applied to Fenelon, Archbishop of Cambray, for the wished-for information; and that the Archbishop, knowing the intimacy that subsisted between the Marchioness de Lambert and Mr John Alexander of Antrim, applied to her on the subject: That the Marchioness accordingly wrote to Mr John Alexander, who, in return, sent to her a full communication as to the family history: That this letter was transmitted by her to the Archbishop, who forwarded it to Monsieur Brossette: That these several documents (the originals of which are on the said map) are subjoined in the Appendix.

9. That the document, No. VII. is in the handwriting of Monsieur Mallet.

10. That the document, No. VIII. appears to have been written at Lyons by a person of the name of Caron St Estienne, of whom the defender cannot find any trace: That the document, No. IX. is in the handwriting of Flechier, Bishop of Nismes, a person of well-known celebrity.

11. That the document, No. X. is the letter holograph of Mr John Alexander of Antrim to the Marchioness de Lambert, above referred to: That part of the letter and the seal still remain, and that the impression of the seal is the same with that on the parchment cover above referred to.

12. That the document, No. XI. is a marginal note in the handwriting of Fenelon, Archbishop of Cambray, and authenticates Mr Alexander's letter.

13. That the document, No. XII. is a copy of the inscription on the tombstone of Mr John Alexander. It bears to have been made by W. C. Gordon, junior, who is supposed to have been a son or other relative of Mr William Gordon, the agent in Scotland of the Rev. John Alexander, sometime of Stratford-upon-Avon; but the defender has as yet been unable to obtain any satisfactory information on this point.

14. That the short memorandum, No. XIV. is in the handwriting of Louis XV. King of France.

15. That the defender avers, and is prepared to instruct by proof, that the above-mentioned documents are in the handwriting of the individuals above mentioned; and he further avers and states, that he never knew of the existence of any of these documents until he was informed of them by Mademoiselle Le Normand, in the manner above set forth.

In respect whereof, &c.

JOHN HOPE.
ADAM ANDERSON.

APPENDIX.

No. I.

Anonymous Note to the Defender.

The enclosed was in a small cash-box, which was stolen from the late William Humphreys, Esq. at the time of his removal from Digbeth-house, Birmingham, to Fair Hill. The person who committed the theft was a young man in a situation in trade which placed him above suspicion. Fear of detection, and other circumstances, caused the box to be carefully put away, and it was forgot that the packet of papers was left in it. This discovery has been made since the death of the person alluded to, which took place last month. His family being now certain that the son of Mr Humphreys is the Lord Stirling who has lately published a narrative of his case, they have requested a lady, going to London, to leave the packet at his Lordship's publishers, a channel for its conveyance pointed out by the book itself, and which they hope is quite safe. His Lordship will perceive that the seals have never been broken. The family of the deceased, for obvious reasons, must remain unknown. They make *this* reparation, but cannot be expected to court disgrace and infamy.

April 17, 1837.

This note was opened in my presence, and found to contain the packet superscribed,

"Some of my Wife's
Family Papers,"

sealed with three black seals bearing the same impression.

London, 22*d April*, 1837. W^m^ Scorer,
Public Notary.

Witness,
Edw. Francis Fennell,
Sol^r^,
32. Bedford Row,
London.

No. II.

Reduced Emblazoned Pedigree of the Earls of Stirling.

No. 35.

Part
of the Genealogical Tree
of the
ALEXANDERS of Menstry,
EARLS OF STIRLING in Scotland,
shewing
only the fourth and now existing
Branch.
Reduced to Pocket size from the
large emblazoned Tree in the
possession of Mrs ALEXANDER,
of King Street, Birm.
By me,
THOS. CAMPBELL,
April 15, 1759.

JOHN, Eldest Son, Born, at Dublin, in 1736, heir to the Titles & Estates.

BENJAMIN, 2d Son, Born at Dublin in 1737.

MARY, Eldest Daūr. Born at Dublin in 1733.

HANNAH, 2d Daūr. Born at Dublin in 1741.

JOHN
6th Earl of Stirling,
(De Jure,)
Md Hannah Higgs
of Old Swinford.
Died at Dublin,
Nov. 1, 1743.
Aged 57.
Burd there.

MARY, Eldest Daūr. Born in 1683. Died unmar'd.

ELIZABETH, Born 1685, Md J. M. Skinner, died 1711. leaving Issue.

JOHN
Marry'd
Mary Hamilton
of Bangor.
Settled at Antrim,
after living many
years in Germany.
Died 1712.
Burd at Newtown.

JANET only Surviving Child of the heiress of Gartmore

JOHN,
4th Son—Marry'd
1. Agnes Graham,
heiress of Gartmore.
2. Elizabeth Maxwell
of Londonderry.
Settled in Ireland
in 1646.
Died 1665.

WILLIAM.
1st Earl of Stirling
B. 1580.
M. Janet Erskine.
Had issue,
7 Sons & 3 Daūrs.
Died 1640.
Burd at
Stirling.

No. III.

LETTER, *Dr Benjamin Alexander to Rev. John Alexander of Birmingham.*

Rev[d] Mr Alexander,
Birmingham.

Dear Bro[r],

Mr Palmer is not at home; but I will take care of the letter. I have but little time to write at present; yet, as Mr Solly is going to-night, and offers to take this, I must tell you, Campbell has written to me. The report we heard last year about the agents of W. A. is too true. No other copy of the inscription can be had at Newtown. The country people say, they managed one night to get the slab down, and 'tis thought they bury'd it. However, C. does not think you need mind this loss, as Mr Lyttleton's copy can be proved. Mr Denison tells Campbell, his copy of grandfather A.'s portrait will be very like when finished. At the back of the original, old Mr Denison pasted a curious mem. from which it appears, that our grandfather rec[d] his early education at Londonderry, under 'the watchful eye of Mr Maxwell, his 'maternal grandsire.' At the age of sixteen, the Dowager-Countess wished him to be sent to Glasgow College; but at last it was thought better for him to go to a German university. He attained high distinction as a scholar, remained many years abroad, and visited foreign courts. Please to give duty and love to Mamma, love to sisters, and be yourself healthy and content.

Y[r] affectionate Bro[r],
B. Alexander.

Lond. *Aug[t]* 20. 1765.

No. IV.

LETTER, *A. E. Baillie to Rev. John Alexander of Birmingham.*

For
Rev. Mr Jn[o] Alexander.

Dublin, Sept. 16. 1765.

Rev[d] Sir,

I was sorry to hear of y[e] lawless act at Newton, but as I tell Mr Denison, I shall be ready to come forward

if you want me. I was about twenty-one when I attended y^r^ grandfather's funerall. He was taken ill while visitting a friend at Templepatrick, and dyed y^re^, for he cou'd not be removed. Mr Livingstone, a verry old friend of y^r^ family, wrote y^e^ inscription, w^h^ y^e^ claimant from America got destroyed. I always heard y^t^ y^r^ great gr.father, y^e^ Hono^ble^ Mr Alexander, (who was known in the country as Mr Alexander of Gartmoir,) dyed at Derry: but for y^e^ destruction of y^e^ parish registers in the north by y^e^ Papists, during y^e^ civil war from 1689 to 1692, you mit have got y^e^ certificates you want.

I am w^th^ Friend Denison till October; so if you have more questions to put to me, please to direct to his care. Till then,

I remain, Rev^d^ Sir,

Y^rs^ respectfully,

A. E. Baillie.

No. V.

LETTER, *Dr Benjamin Alexander to Mrs Alexander, King Street, Birmingham.*

To
Mrs Alexander,
King Street,
Birmingham.

Hon^d^ and D^r^ Mamma,

Received y^r^ letter yesterday by Mr Kettle. I write instantly to prevent more mischief. Take no physic any body —foolish practice to weaken constitutions for a foolish rash — let it go off as it will — don't you see how it has hurt Mary? Let sister Hannah take antimonial wine, thirty or forty drops twice a-day. This will carry off the rash by perspiration, and safely. I send you the portrait of gr.father Alexander, which Campbell did for Bro^r^. Sisters never saw it. C. says we can't recover Gartmo
The other Scottish property went to
half sister to my gr^d^father, but w
succeeded in Ireland if we begin soon
It will be now necessary to pay Campbell's bill. It comes to

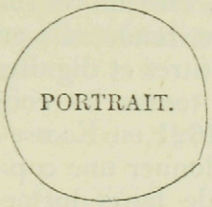
two and twenty pounds thirteen shill^{s}. Let me know in yo^{r} next how you propose furnishing the money.

I am, in great haste, and with
love to sisters, y^{r} dutif. and
affec^{t} Son,
B. ALEXANDER.

Lond. July 26. 1766.

No. VI.

NOTE *on Back of Copy Portrait of Mr John Alexander of Antrim.*



JOHN ALEXANDER, Esq.
of Antrim,
Died April 19, 1712.
From the Original Painting,
Done at Versailles in his fortieth
year: now in the possession of
P. DENISON, Esq. of Dublin.

THOS. CAMPBELL, *pinx.*

(On the back.)

Note.

Mr Denison believes my g^{t} gr.father lost his first wife, Agnes, in 1637, and that he met Miss Maxwell at Comber, and was marr^{d} to her in 1639. If so, and my gr.father the next year made his appearance in this world, we may suppose the original portrait was painted in 1679.

B. A.

[The following writings are some of them written and the rest pasted upon the back of a map of Canada or New France, by Guillaume de l'Isle, Paris, 1703.]

No. VII.

NOTE *by M. Ph. Mallet, respecting Charter in favour of William, Earl of Stirling.*

A Lyon, ce 4 Aoust 1706.

17189 & 17190 Pendant mon sejour en Acadie en 1702, ma curiosité fut piquée par ce que l'on me disoit d'une ancienne charte, qui est conservée dans les archives de cette province. C'est la charte de confirmation, ou "de nouodamus," en datte du 7. Decembre 1639, par laquelle le Roy Charle I^er^ d'Angleterre, renouüella en faveur de Guillaume, Comte de Stirling, les titres et dignitez qu'il luy avoit precedemment accordés, et toutes les concessions de terres qu'il luy avoit faites depuis 1621 en Ecosse et en Amerique. Mon amy Lacroix m'en fit donner une copie, que j'eus la precaution avant de partir de faire duement attester. De cette piece authentique ie vais presenter icy quelques extraits, (traduits en Francois pour l'intelligence de ceux qui ne

Reg. H. fo. 95. E. D. sçavent pas le Latin,) afin qui toute personne, en ouurant cette carte de nos possessions d'Amerique, puisse se faire une idée de la vaste estendue de territoire qui fut concedé par le Roy d'Angletterre à un de ses sujets. Si le sort de la

1. Mars 1710. guerre, ou quelque autre evenement, faisoit rentrer la Nouvelle France et l'Acadie sous la domination des Anglois, la famille de Stirling possederoit ces deux provinces, ainsi que la Nouvelle Angleterre, "et egalement la totalité des passages et limites tant sur les eaux que sur les terres depuis la source de la riuière du Canada, en quelqu' endroit qu'on puisse la trouver, jusqu' à la baye de Californie, avec cinquante lieues de terres de chaque costé du dit passage, et de plus toutes les autres terres, limites, lacs, riuières, détroits, bois, forêts et autres, qui pourront estre a l'auenir trouués, conquis ou decouuerts par le dit Compte ou ses heritiers." Voicy enfin l'ordre de succession à cet heritagy. 1°. Aux titres de noblesse, ("de nouodamus," *etc.*) "au susdit Guillaume, Comte de Stirling, et aux heritiers-males descendant de sa personne; à leur defaut, aux aînées des heritières"

(hæredibus femellis natu maximis) "sans diuision du dernier des susdits heritiers-males, et aux heritiers-males descendant de la personne des dites heritières respectivement, portant le surnom et les armes d'Alexander, et au defaut de tous ces heritiers, aux plus proches heritiers quelconques du dit Guillaume Comte de Stirliug, (Icy suivent les titres," *etc.*) 2°. Aux possessions territoriales, ("de nouodamus concedimus, disponimus, proque nobis et successoribus nostris, pro perpetuo confirmamus,") "au susdit Guillaume, Comte de Stirling, et aux heritiers-males descendant de sa personne; à leur defaut, aux aînées des heritières sans diuision du dernier des susdits males qui succédera cy-apres aux susdits titres, honneurs et dignitez, et aux heritiers-males descendant de la personne des susdites heritieres respectivement, portant le surnom et les armes de la famille Alexander, qu'ils seront tenus et obligés de prendre," *etc. etc.* Ainsi, le Roy d'Angletterre a donnéu a Comte, et a asseure à ses descendants en perpetuité, assez de terres pour fonder un puissant empire en Amerique.

PH. MALLET.

No. VIII.

NOTE *by M. Caron St Estienne, Canadien.*

La notte cy-dessus est precieuse. Je puis asseurer qu'elle donne en peu de mots une idée extremement juste de la marveilleuse charte dont il est question. Quant à la copie de cette charte, elle est attestèe par l'archciviste et les temoins Acadiens, et doit estre entierement conforme au registre du Port Royal. J'avois entendu parler à Quebec des concessions au Comte de Stirling, mais mon amy M. Mallet fut le premier qui me procura lecture de la charte. Ce document extraordinaire s'estend à près de cinquante pages d'escriture et le Latin rien moins que classique: Cependant, comme Canadien un peu interessé en ce qu'il y avoit dedans, je dois dire, que je l'ay leŭ d'un bout à l'autre avec autant de curiosité que de satisfaction. Feu Mr Mallet estoit un homme, dont les bonnes qualitez et la rare intelligence font regretter que la mort l'a enlevé si subitement à ses amis. Il avoit bien prevu que la copie ne feroit point connoistre la charte en France. Voyla, donc, pourquoy il consceut le project d'escrire sur une de ces belles cartes de Guillaume de l'Isle une notte, que tout le

monde pust lire avec interest. S'il avoit vescu assez longtemps, il auroit adjousté a cet interest, car il vouloit s'informer en Angleterre de l'estat actuel des descendants de Comte qui obtint les concessions, et tout ce qu'on luy auroit mandé à leur egard auroit esté escrit sur cette mesme carte. Au surplus avec les deux documents qu'il nous a laissés, personne en France ne pourra revoquer en doute l'existence dune telle charte.

CARON SAINT ESTIENNE.

A Lyon, le 6. *Avril* 1707.

No. IX.

ATTESTATION *by Esprit Flechier, Bishop of Nismes.*

J'ay lû dernierement, chez Monsieur Sartre à Caveirac, la copie de la charte du Comte de Stirling. J'y ay remarqué beaucoup de particularités curieuses, entremeslées d'un grand nombre de details peu interessants. Je pense donc qu'ondoit avoir de grandes obligations à Monsieur Mallet, d'avoir mis le public Francois en estat de juger, par la note cy-dessus, de l'estendue et de l'importance des concessions faites à ce Seigneur Ecossois. Je trouve aussi qu'il a extrait les clauses les plus essentielles de la charte, et en les traduisant en François les a très-bien rendues. Monsieur Caron Saint Estienne m'a prié de rendre ce temoignage. Je le fais avec le plus grand plaisir.

ESPRIT, *Ev. de Nismes.*

A Nismes, ce 3. *Juin* 1707.

Cette attestation est de la main d'Esprit Fléchier, Evêque de Nismes.

Paris, 2. *Août.* 1837.

VILLENAVE.

Vu par nous Maire du onzième arrondissement de Paris, pour legalisation de la signature de Mr Villenave père apposée ci-dessus, et encore au haut de cette marge.

A Paris, le deuze Août 1837.

(*L. S.*) DESGRANGES.

Vu pour legalisation de la signature de Mr Desgranges

apposée ci-contre, par nous juge pour l'empech[t] de Monsieur le President du tribunal de 1[ere] instance de la Seine.

Paris, le trois Août 1837.

(L. S.) SALMON.

Vu pour legal[on] de la signature de M[r] Salmon, juge du trib[l] civil de la Seine.

Paris, 2. 8[bre] 1837.

Par deleg[on], Le chef de Bureau du min[re] de la justice.

(L. S.) PORET.

Le Ministere des Affaires Etrangères certifie veritable la signature ci-contre de M[r] Poret.

Paris, le 2. 8[bre] 1837.

Par autorisation du Ministre, Le Chef du B[u] de la Chancellerie.

(L. S.) DE LAMARRE.

Vu pour legalisation de la signature ci-contre de M[r] De Lamarre, Chef du Bureau de la Chancellerie au departement des Affaires Etrangères.

Paris, ce quatre Octobre 1837,

Le Consul de sa Majesté Britannique à Paris.

(L. S.) THOMAS PICKFORD.

No X.

HOLOGRAPH LETTER, *Mr John Alexander to the Marchioness de Lambert.*

Lettre Autographe de M. JOHN ALEXANDER, (petit fils du célèbre Compte de Stirling,) à Mad[me] la Marquise de LAMBERT.

(L. S. of the Records.)

D'Antrim, le 25[me] *Aoust* 1707.

Je ne sçaurois vous dire, Madame, combien ie suis sensible à l'honneur de vostre souvenir. Je dois aussi de sincères remerciemens à Monsieur de Cambray, puisque c'est luy qui a facilité le voyage de mon amy Monsieur Hovenden, et par

là a esté cause que vostre lettre et la copie que vous avez eü la bonté de m' envoïer de la notte sur la charte de mon ayeul m'ont esté rendues si vite. Je vais repondre de mon mieux aux questions que vous me faites. Je ne suis pas, comme vous avez pensé, l'heritier des titres de ma famille. Nostre chef à present est Henri, 5me Comte de Stirling, descendu du 3me fils de mon aÿeul. Il demeure à quelques milles de Londres—n'a point d'enfans, mais il a des frères, dont l'aîné est son heritier presomptif. Du 1er fils il ne reste que des descendans de ses filles. Le 2d n'a point laissé d'enfans. Mon père estoit le 4me fils—il epousa en premières noces une heritière de la maïson de Gartmore en Ecosse. Ma mere, de la famille de Maxwell, estoit sa seconde femme. Mais quoyqu'il ait eü des filles par la première il n'eüt jamais d'autre fils que moy. Pour achever cette genealogie de famille, il faut, Madame, que ie vous dise que ma femme est une cadette de celle d'Hamilton, maison ducale en Ecosse, et qu'elle m'a donné un fils, nommé *John*, après mon père et moy, et deux filles. J'ay si peu d'idée à present que les titres et les biens de Stirling puissent echoir à mes enfans, que j'ay encouragé le goust de mon fils pour là ministère de nostre Eglise d'Ecosse, et il s'y prepare en Hollande, a l'Université de Leyde. Je conserveray l' interessante notte de Monsieur Mallet avec soin: la charte estoit enregistrée à une epoque en Ecosse, aussi bien qu'en Acadie; mais pendant la guerre civile, et sous l'usurpation de Cromwell, des caisses contenants une partie des archives de ce roÿaume furent perdues en mer pendant un orage, et selon l'ancienne tradistion de nostre famille, le registre sur lequel cette charte avoit esté inscriste fut au nombre de ceux que estoient perdus.

Voyla, Madame, tout ce que ie puis dire en response à vos questions, car c'est impossible dans ce paÿs d' Irlande d'obtenir d'autres renseignemens à l'egard de la charte enregistrée. Je cry que ma grandmere avoit donné *la charte originale* (qu'elle aporta d'Ecosse en venant sestablis en Irlande,) à son gendre le Lord Montgomerie, pour qu'il la gardat avec soin dans Chateau Comber, où il demeuroit. Je m'informeray de ce que cette famille en a pu faire, et si ie fais quelque decouverte, j'auray l'honneur de vous en prevenir.

Je n'oublieray jamais, Madame, vos bontez pour moy, ni les charmes de la société que ie trouvay tousjours chez vous. Tant que je vivray, ie vous seray attaché avec le plus respectueux devoüement.

JOHN ALEXANDER.

[Cachet de M. John Alexandre,
et portion de l'enveloppe de sa lettre.]

No. XI.

NOTE *by Francis de la Motte Fenelon, Archbishop of Cambray, written on the margin of No. X.*

Les amis de feu M. Ph. Mallet liront sans doute avec un grand interêt cette lettre d'un petit fils du Comte de Sterling. M. Cholet de Lyon partant aujourd'hui, 16. Octobre 1707, pour s'en retourner chez lui, aura l'honneur de la remetter à M. Brossette, de la part de Madame de Lambert.

Pour l'authentiquer, j'ai ecrit et signé cette apostille.

Fr. *Ar. Duc de Cambray.*

Vu par nous Garde General des Archives du Royaume, pour la verification de la signature, *Fr. Ar. Duc de Cambray* et de l'ecriture des six lignes qui la precedent, lesquelles lignes sont placées, savoir les trois premieres sur la marge, et les trois dernieres au bas, d'une lettre signée *John Alexander*, et en date du 25. Août 1707 :

Nous avons reconnu que l'ecriture de ces six lignes et la signature qui les suit sont conformes à l'ecriture et à la signature d'une lettre de Fenelon, Archevêque de Cambray, en date du 21. Decembre 1703, et deposée à la section historique des Archives du Royaume, serie M. No. 928.

En foi de quoi, nous avons signé et fait apposer le sceau des dites Archives, d'une part sur la piece qui renferme l'ecriture de Fenelon, et de l'autre sur le revers de la carte du Canada, à laquelle cette piece a été collée.

Paris, le vingt sept Juillet Mil huit cent trente sept.

(L. S.) DAUNOU.

Vu par nous Maire du 7^{me} arrond^{t} pour legalisation de la signature de M. Daunou, (ci-dessus apposée,) garde general des Archives du Royaume.

Paris, ce 4. *Août* 1837.

(L. S.) LECOQ.

Vu pour legalisation de la signature de M. Lecoq. adj^{t} au Maire du 7^{me} arrond^{t} par nous juge pour l'empech^{t} de Monsieur le President du tribunal de 1^{ere} instance de la Seine.

Paris, le quatre Août 1837.

(L. S.) H. DE ST ALBIN.

Vu pour legal[n] de la signature de M[r] de St Albin, juge du trib[l] civil de la Seine.
Paris, 2. 8[bre] 1837.

Par deleg[on], Le Chef de Bureau du Min[re] de la Justice.
(L. S.) PORET.

Le Ministre des Affaires Etrangères certifie veritable la signature ci-contre de M[r] Poret.
Paris, le 2. 8[bre] 1837.

Par autorisation du Ministre, Le Chef du B[au] de la Chancellerie.
(L. S.) DE LAMARRE.

Vu pour legalisation de la signature ci-contre de M[r] De Lamarre, Chef du Bureau de la Chancellerie au Departement des Affaires Etrangères.
Paris, ce quatre Octobre 1837.

Le Consul de sa Majesté Britannique à Paris.
(L. S.) THOMAS PICKFORD.

No. XII.

Copy INSCRIPTION *at Newton-Ards, to the memory of Mr John Alexander of Antrim.*

[This copy is word for word the same as Mr Lyttleton's copy, already in process, and at the foot of it are these words:]

This is a faithfull copy of the Inscription to the memory of John Alexander, Esquire, upon the tablet over his tomb at Newtown-Ardes, Co. of Down, Ireland.
STRATFORD UPON AVON,
Oct. 6. 1723.
W. C. GORDON, *Jun[r].*

No. XIII.

NOTE *underneath No. XII.*

Cette Inscription a esté communiquée par Mad[e] de Lambert. Depuis la mort de Monsieur Alexander, en 1712, cette dame n'a pas cessé de donner des marques de sa bienueillance et de son amitie au fils de cet homme distingué. Ce fils est connu avantageusement en Angleterre, comme ministre du culte Protestant, et comme scavant philologue. Dans la connoissance des langues de l'Orient il est presque sans competiteurs. Il est à la teste du College pour l'education des ieunes ministres établi a Stratfort, dans le comté de Varvick.

No. XIV.

MEMORANDUM *by his Majesty, Louis XV. written on the margin of No. XIV.*

Cette note est digne
de quelque attention dans
les circonstances presentes : mais
qu'on m'envoie la copie de la chârte originale.

J'atteste que les quatre lignes ci-dessus sont de la main de Louis XV. et parfaitement conformés à l'écriture de ce Roi, dont je possede plusieurs pièces et lettres autographes.

Paris, ce 2. *Août* 1837.

VILLENAVE.

No. V.

SECOND DIVISION.

MAY 21, 1838.

ANSWERS.

OFFICERS OF STATE, *Pursuers.*

TO

MIN. HUMPHREYS OR ALEXANDER, *Defender.*

"*Edinburgh, November* 28, 1837.—The Lords allow the productions now tendered to be lodged and seen, reserving all competent objections thereto.

(Signed) "D. BOYLE, *I.P.D.*"

"*December* 19, 1837.—The Lords having heard this Note, allow a *fac-simile* of the documents therein referred to, to be made, under the direction and control of Mr Mark Napier, Advocate.

(Signed) "D. BOYLE, *I.P.D.*"

"*March* 2, 1838.—The Lords having heard this Note, appoint Answers to the said Minute, to be lodged by the second Box-day of the ensuing vacation.

(Signed) "D. BOYLE, *I.P.D.*"

"*May* 12, 1838.—The Lords prorogate the time for lodging the Answers to Defender's Minute for eight days from this date.

(Signed) "D. BOYLE, *I.P.D.*"

ANSWERS

FOR

THE OFFICERS OF STATE, *Pursuers.*

TO THE

MINUTE for ALEXANDER HUMPHREYS or ALEXANDER, calling himself "Earl of Stirling," &c. *Defender.*

This action of reduction has been in Court since January, 1833.

On the 20th December, 1836, the Lord Ordinary pronounced an interlocutor, reducing two services of the defender, by which he proposes to take up the succession to a Scotch Earldom, and certain territories, comprising Canada and part of Nova Scotia.

The Lord Ordinary's interlocutor was accompanied by a long Note, setting forth the grounds of his Lordship's decision, and pointing out very minutely the steps of the defender's pedigree, which were not proved, and the defective nature and suspicious character of certain parts of the evidence.

The defender reclaimed against the Lord Ordinary's interlocutor on the 5th January, 1837.

The case was put to the roll for advising on the 31st May, 1837.

On the previous day, the 30th May, 1837, the defender lodged a note, stating that he had lately recovered certain family papers, which rendered it desirable to apply to other sources of confirmation, which are now opened to him, and craving time to make the requisite inquiries, and to strengthen his case, if possible, by farther evidence.

The defender obtained the delay he sought for, and afterwards a farther prorogation, till the first sederunt day of November, 1837. Interlocutor, June 20, 1837.

At that time the defender obtained leave to put in a "minute, stating more fully the nature of the documents, the circumstances connected with their being discovered by him, and the points of evidence arising out of them." Nov. 15, 1837.

On the 27th November, the *minute* for the defender, and accompanying documents, were lodged ; and on the following day the Court "allowed the productions now tendered to be lodged and seen, reserving all competent objections thereto." Interlocutor, Nov. 28, 1837.

The Court afterwards authorized a *fac-simile* of the documents to be made, under the direction and control of Mr Mark Napier. Dec. 19, 1837.

It is now the duty of the pursuers to bring under the notice of the Court the minute of the defender of 26th November last, as containing an account of the documents lodged ; the circumstances connected with their alleged discovery by the defender ; and the points of evidence arising out of them.

These documents are said to be derived from two distinct sources, the one in England, the other in Paris.

I. The first packet is connected with a remarkable history. It appears that Messrs De Porquet and Cooper, booksellers, received by the twopenny post a note, bearing to be written by a Mrs Innes Smyth, and enclosed in a packet which she requested should be instantly forwarded to the Earl of Stirling or any member of his family. This note was dated "Hackney, April 19," and it mentioned that the writer had recently arrived in town from Staffordshire; but unfortunately, no more information is afforded by the defender, as to who this lady may be, or how she became the means of communicating the mysterious packet.

The packet thus communicated, was handed by the booksellers to a son of the defender, then in London, who did not suffer himself to be led away by any impatient and imprudent curiosity to inspect the mysterious enclosure, but used the precaution to keep it unopened, until he was enabled to break the seal in presence of a notary public, and another famous witness.

When so opened, the outer cover was found to consist of an *anonymous* note, stating, that the enclosed packet had been stolen from the house of Mr Humphreys, the father of the defendant it is presumed; that the theft was discovered after the death of the thief, by his relations, and that they having perused a published narrative of the defender's case, requested a lady going to London, the mysterious Mrs Innes Smyth of course, to leave the packet at his Lordship's booksellers. The note concludes with the following words:—"*His Lordship will perceive that the seals have never been broken. The family of the deceased, for obvious reasons, must remain unknown. They make* this *reparation, but cannot be expected to court disgrace and infamy.*" This note is surrounded by a a lugubrious broad border of black, evidently in sign of mourning for *the deceased*, who had thus stolen a packet so carefully sealed, and had been too honourable to break the seals, or to pry into its contents.

The packet enclosed was a small case of parchment, marked on the outside, "Some of my wife's family papers," and sealed with three seals. It was considered too important to be opened even in presence of the notary and witness assisting, and it was accordingly, with all solemnity, opened in the presence of a proctor of Doctors Commons. Its contents form the first class of documents now tendered.

II. The French discovery is of a scarcely less singular

history. The defender sets forth, that, on the 12th of July, 1837, he received information of the existence of an old map of Canada, containing certain documents concerning his family, partly written, partly pasted on its back, from Mademoiselle Marie Anne Le Normand, whom he is pleased to style "An authoress of some note, who keeps a library in Paris, and possesses a considerable collection of unpublished MSS."

Mademoiselle Le Normand is undoubtedly a person "of some note," since she turns out to be no other than the person who acquired such questionable celebrity under the Empire, as a Sibyl and Diviner, mixed up in many of the intrigues of the Court of Napoleon, and the Empress Josephine. She appears now to have fallen somewhat in station, though she still practises the arts of divination for hire.

The documents thus furnished are not traced by the defender to any higher source than that of Mademoiselle Le Normand. What they want, however, in extrinsic or historical evidence, is supplied by a profusion of attestations of their genuineness by persons of high contemporary celebrity.

These papers, the most important of which purport to be a private and confidential letter from a supposed ancestor of the defender, and a copy of an inscription on a tomb in Ireland, which cannot, upon any theory, be supposed to have interested any human being except the defender or the family with which he claims to be connected, and the succession to which did not open by the failure of the direct line till long after, are yet actually authenticated by the alleged holograph attestations of such persons as Flechier, Bishop of Nismes, and the illustrious Fenelon. They are farther dignified by a note which is gravely said to be in the hand-writing of Louis XV. a prince who is believed to have written only two words in his reign,—his own name *Louis R.* and the word "*bon*," as an approval of any document submitted to him. His disapproval was marked by a line deleting the proposal, to save the fatigue of further penmanship, which indeed he so carefully eschewed, that even his notes to his mistresses were written by a secretary.

It may perhaps be considered superfluous to say that these documents, coming from such opposite channels, united in filling up the chasms in the evidence of the defender's pedigree, and supplied—*precisely the two links which were pointed out by the Lord Ordinary as wanting.*

A difficulty had occurred in the defender's case from the pursuers having proved that a certain John Alexander, who was married to the daughter and heiress of Graham of Gartmore, and whose son the defender claimed as an ancestor, had no son by that marriage. The defender had not discovered nor alleged any other marriage: but in the argument at the bar, he took it for granted that John Alexander was twice married, as the only solution of the difficulty.

The present documents furnish the name of John Alexander's second wife, the date of the marriage, and all other necessary particulars.

The Lord Ordinary had set aside as inadmissible or improbative, an alleged copy of a tomb-stone inscription.

The same inscription, copied word for word, is among the documents furnished by Mademoiselle Le Normand, and it has the advantage of an attestation by an unknown *W. C. Gordon, junr.*

These extraordinary coincidences, and the singularity of such important evidence coming to light from two quarters, exactly in time to stay the advising of the action, require explanation.

It is unnecessary to point out how much importance attaches to the *custody* of documents, thus tendered in evidence more than a century after their apparent date. That is felt in all cases of this nature, and certainly not less forcibly felt, when, as in the present case, the documents appear recently to have passed through the hands of an unknown thief—his anonymous relatives—an undiscovered lady of Staffordshire—and a French juggling *intriguante*. In seeking for some information of their previous custody and history, the pursuers are met by difficulties at the outset, which only the defender can remove—not by the guarded statements of his law advisers, but by undergoing a full and searching personal examination.

The pursuers submit, that they might in strict law go to issue with the defender, on the admissibility of the documents he tenders. They do not, however, demand that they be withdrawn. On the contrary, they hold it of great importance, that they should be detained in the hands of the Court, and they submit, that it is not only necessary for the proper investigation of this important case, but also essential to the ends of justice, that the defender should be examined judicially, in the presence or under the authority of the Court, with regard to the whole circumstances of the alleged discovery of the documents tendered by him in evidence.

Your Lordships are therefore moved to refuse *hoc statu* the desire of the defender, that he may produce the documents tendered, as evidence *in causa ;* and farther, to appoint the defender to be judicially examined, relative to these documents ; or to do otherwise in the premises as to your Lordships shall seem just.

In respect whereof, &c.

C. INNES.

No. VI.

SECOND DIVISION.

DEC. 18, 1838.

DECLAR. RED. — OFFICERS OF STATE,

AGAINST

ALEXANDER.

JUDICIAL DECLARATION

OF THE

DEFENDER in the Action of REDUCTION-IMPROBATION, &c. The OFFICERS OF STATE,

AGAINST

ALEXANDER, calling himself EARL OF STIRLING.

At Edinburgh, in the Second Division of the Court of Session, on the 18th day of December, 1838, in pursuance of an interlocutory order of the Lords made on the 11th day of December current, Compeared Alexander Earl of Stirling, and interrogated by the Lord Advocate, If he had read the

condescendence given in in his name? Declares, That he has. Interrogated, If he desires to make any additions or alterations on that condescendence? Declares, That he is ready to make any further explanations that may be asked. Interrogated, When he was first made acquainted with the note issued by Lord Cockburn, December 10th, 1836? Declares, That he was not made acquainted with that, or any part of his Lordship's judgment or proceedings, till the month of March or April following, except as to their general import, which he had learned from the letters addressed to him by his own family. Interrogated, If in the month of December he had not been made acquainted with the note of December 10th, accompanying the draught of an interlocutor which Lord Cockburn intended to pronounce? Declares, That he was not; and even now knows not any thing of the particulars of that note. Interrogated, If he did not receive in the course of the month of December, some information touching the interlocutor which Lord Cockburn, on the 10th of that month, had intimated his intention to pronounce? Declares, Certainly not. Interrogated, If it is to be understood, that during that month of December he had received no communication of the judgment which on the 10th Lord Cockburn had intimated his purpose of issuing? Declares, None whatever; and for this best of reasons, that he was then travelling. Interrogated, If there was any professional person in this Court, or resident at Edinburgh, who usually informed him of the course of proceedings in this cause? Declares, No professional person; but generally he received such information from members of his own family. Interrogated, If in the said month of December any member of his family, or any other person, gave him any information relative to what had been done by Lord Cockburn on the 10th of December? Declares, None whatever: Declares, That he set out on the 18th of December, 1836, to go to France. Interrogated, Under what name he travelled into France? Declines to answer on a point entirely private, further than that he did travel incognito, for economical reasons; the name by which he did travel appeared in his passport. No person travelled along with him: Declares, That a letter was written to Madlle. Le Normand, by Lady Stirling, some time before he set out for Paris; about nine or ten months before: That the reason for this correspondence arose from the previous proceedings in this Court for proving the tenour of a certain charter; and the evidence having been

thought insufficient, he had become desirous of having the records of Annapolis examined, in the view of obtaining further proofs on that matter; and in consequence of the extensive acquaintance of Madlle. Le Normand with literary persons, and her known facilities of communication with persons high in office, he was induced to communicate through Lady Stirling with her on that subject; and particularly to request her to bend all her endeavours to find out any documents or charters relative to the possessions of the family of Stirling in that country: That he had never dreamed of seeking in France for documents illustrative of his own pedigree; and it was with the greatest surprise that he afterwards learned that those documents, since produced, had been discovered, and were calculated to throw light on that pedigree; and, in fact, no one was more surprised. Interrogated, Where he had obtained his passport? Declines to answer, being private,—and being then in pecuniary difficulties, and unwilling to compromise his friends. He arrived in Paris on the 21st of December—Did not see Madlle. Le Normand for some time; and did not approach her house unless on very particular occasions, when requested by his family. Interrogated, If there was any one week, from his arrival in Paris till the month of June thereafter, that he did not see Madlle. Le Normand? Declares, That for many weeks he did not see her, and only saw her occasionally as above stated. Declares, That he met at Madlle. Le Normand's with a person of the name of Triboul, her private secretary or amanuensis; and this only once or twice for a very short time, and after the discovery of the document. Interrogated, If he did not meet Triboul frequently at Madlle. Le Normand's, and remain in conference with him for hours, and this prior to the discovery of the document? Declares, Certainly not; and never saw him or heard of his name till after the document had been discovered,—when at the declarant's request a copy was made by Triboul, he being a medical student employed by her as an amanuensis, as he understands: and this was for him to bring over to England, to be laid before his counsel; which he did accordingly. Interrogated, Did he grant Madlle. Le Normand any obligation for 400,000 francs, or any other sum in case he should succeed in these proceedings? Declares, That he had received advances of money from Madlle. Le Normand long before the time in question, and more than twenty years ago, and owed her a great deal of money: That she had besides been at great expense in making researches in France, in Germany, and in Holland, for

fifteen months, on the subject in question, in the view of benefiting his family: That for this debt and those outlays, including interest, he does owe her the sum stated; but of that not one farthing was intended as any remuneration for her services, she being far above receiving any return of that kind. Declares, That the payment of that sum is not made contingent on his success in these proceedings, but at certain fixed periods. Declares, that Madlle. Le Normand requested him to call on her a few days after she had discovered the document, but without apprising him why she did so: That she had not given him any intimation previously, of her hope of recovering such a document, nor had he the least idea of any thing of the sort. Interrogated, If Madlle. Le Normand ever informed him from whom she had received the document in question? Declares, That she had done so no further than by telling him that two ladies, very fashionably dressed, had called at her house and left it. She did not inform him who these ladies were; but she stated to him her suspicion who the person was that had sent the document, and the declarant also had his own suspicion. Madlle. Le Normand told him she did not know who the ladies were: That she received a letter along with the document, in which the writer describes himself as holding a high situation, but in such circumstances as made it absolutely impossible for him to come forward; and that he had made the communication from grateful feeling of obligation to Madlle. Le Normand and in consequence of applications that had been made to him by her friends. Madlle. Le Normand did not tell him what the ladies had said when they delivered the documents: That Madlle. Le Normand retained the original letter, but that a copy was taken, which is now in the hands of his agent: That Madlle. Le Normand did not name the person she suspected to have sent the document; and she has never done so to him. Interrogated by the Court, Who he himself suspects to be the person by whom the document was sent? Declares, That he cannot venture to name that person, being of such exalted rank as to make such a declaration, on his part, unsafe and improper, without positive proof: That he neither can nor dare do more, having only strong suspicions on the subject. Interrogated by the Lord Advocate, If he has any objections to produce the copy of the letter in question? Declares, he has none, and can have none, and a copy shall be produced. Interrogated, What is the date of his obligation to Madlle. Le Normand for the sum of 400,000 francs? Declares, That this is a private matter, and he declines answering; and further, cannot

recollect it at present, not expecting to be examined on such a subject entirely private. Interrogated, If that obligation was not granted by him in the period from December 1836 to July 1837? Declares, he cannot recollect—not having his notes, and not expecting the question. It was long before the discovery of the document, and was merely a settlement of old accounts,--nothing else,— and entirely unconnected with any thing of the kind. Interrogated, If he has any objection to state where he resided, while in Paris? Declares, he has, as it might compromise friends. Interrogated, If, while in Paris, he recollects having gone to the shop of a person named Legouix, on the Quai D'Orsay, No. 1? Declares, he never heard of any such person. Interrogated, if he recollects of having purchased at that shop a map of Canada, by De Lisle, of the date of 1703? Declares, Certainly not, nor ever employed any person to purchase or receive such a map: That he was very differently employed, and can account for every hour of his time. Interrogated, Declares, That none of his family were ever with him in Paris, excepting Lady Stirling in 1822. Interrogated, What is Madlle. Le Normand's profession? Declares, That he has the highest respect for Madlle. Le Normand, but has nothing to say as to her peculiar talents: That she is *Auteur Libraire*, and publishes and sells her own works. Interrogated, If he does not know whether she has any other occupation or employment? Declares, That he can only say that she has been consulted by persons of the highest rank—sovereigns and others. He has nothing to do with her in any other way than he has explained. And Reinterrogated, and desired to answer the question,—He can only say that on her door is inscribed, *Bureau de Correspondence*; more than this he cannot say: That she is consulted by all sorts of persons. Interrogated, If she is not generally known in Paris as a fortune-teller, and is consulted as such? Declares, That in the common acceptation he believes she is so considered. Believes she tells fortunes by means of cards. Specially Interrogated, If he has seen her tell fortunes by means of cards? Declares, That being advised by his counsel to answer the question, he says that he has seen her do so. Believes that she is paid by those who consult her, to tell their fortunes. Interrogated, Did she tell him his own fortune, on the cards or otherwise? Declares, She certainly did at one period, as thousands have had the same curiosity: That he then paid her five *Napoleons*: That this was a long time ago; and he has no dates to assist his recollection. The first consultation he had as to his

fortune, was through Lady Stirling about 24 years ago: That the consultation, when he paid down the five Napoleons, was when he himself was present; but the time he cannot specify. Interrogated, When his acquaintance with her commenced? Declares, That he thinks the first time he ever saw her was in 1814. He was then married. He was introduced to her by Lady Stirling. They had been on terms of intimate acquaintance before: That Lady Stirling accompanied him to England in 1814: That at this period he saw Madlle. Le Normand not more than twice: That Lady Stirling continued to correspond with Madlle. Le Normand, though not very frequently, some years occasionally intervening? Declares, That he, with Lady Stirling, was in Paris for a few days in 1822. None of his family had been in France after leaving it in 1814. He was also, in 1833 or 1834, on the coast of France for a short period: That he did not himself see Madlle. Le Normand in 1822; but Lady Stirling had seen her; but not in 1833 or 1834. Interrogated: as the declarant's only visit to Paris, between 1814 and 1836, was in 1822, and as he did not see Madlle. Le Normand on his visit in 1822, On what occasion it could be that she told him his fortune at a personal interview? Declares, That it must have been early in 1837. Interrogated, If he himself personally delivered the obligation to Madlle. Le Normand? Declares, He did so when the accounts were arranged. Interrogated, When that settlement took place? Declares, He cannot state the time. Interrogated, Was it prior to 1836? Declares, It was not prior to 1836. Reinterrogated, Believes it was in 1837. Several applications had been made to him by Madlle. Le Normand for a settlement of their accounts; and it must have been in 1837. He left Paris on the 13th of August, and had granted the obligation before he left Paris, but cannot recollect the precise time? Declares, He had seen her, not frequently, but occasionally: That at their first interview, she had requested him to settle their accounts. Has no recollection how often he had seen her before the accounts were settled, or at what time the settlement was actually made: That obligation is payable at certain periods, none of which are yet come, and he cannot recollect what the fixed periods of payment are. None of his family were with him in Paris in the year 1837. Interrogated, Declares, It was when in Paris that he received information of Lord Cockburn's judgment, in March or April 1837. Interrogated, Declares, That he had been in France from 1802 to 1814, detained as a prisoner of war. He was

married in the year 1812. Declares, that on his return from Paris in August 1837, he came direct to Edinburgh, to attend the election of Peers: That he came back under the same passport, and in the same name, as he had gone abroad. Interrogated, Declares, That Madlle. Le Normand is the author of many books, one of which is the "Memoirs of the Empress Josephine." Interrogated, When he was first informed of a certain packet having been sent to Messrs De Porquet and Cooper by the Twopenny post? Declares, He first learned this by a letter from his third son Eugene Alexander; but of what date he does not recollect; but it was soon after the packet had been received. He does not know that he has preserved that letter; and has no objection, if he finds it, to give an excerpt so far as the letter relates to that packet. Interrogated, Whether he had ever heard before this time that a cash box had been stolen from the late William Humphries at the time of his removal from Digby House to Fairhill? Declares, That he has heard his father mention that he had lost a cash box containing some hundred pounds; but never heard him say any thing of papers: That it was in 1793 or 1794 that this took place. Interrogated, whether he ever heard, before the reception of that packet, that John Alexander, fourth son of the first Earl of Stirling, had been married a second time, after having been first married to a daughter of Graham of Gartmore? Declares, He never had; but he suspected it, as a general conclusion drawn by him and his friends from other facts in the case. He had never before heard that John Alexander had been married to a lady of the name of Maxwell; nor had heard of any persons of the name of Maxwell as connected with his family. Interrogated, If he has examined the seals upon the packet above mentioned? Declares, That he has not, and is not certain that he ever saw them: And the cover of the Packet No. 83 of process, being shewn him, Declares, He does not think he ever saw it before; but he now recognizes the indorsement as in his father's hand-writing; and that the seal attached is an impression of his grandfather's seal. The words he so recognizes are '*Some of my wife's family papers.*' He had seen that seal many years ago, not later than 1825. It is in the possession of his sister, Lady Elizabeth Pountney. Interrogated, Is any person, under the designation of Mrs Innes Smith, known to reside in any part of Great Britain? Declares, That every pains has been taken, by advertisements and otherwise, to discover where she resides, but hitherto

without any success. Interrogated, Does he believe that designation to be real or fictitious? Declares, That he cannot tell, having no idea or information on the subject. He cannot say what means were taken to recover the money lost by his father in 1793 or 4, having been then a boy at school; and can only remember the general fact as stated to him by his father, and does not recollect of any person having been suspected of the theft. And being shewn No. 68 of process, and the map of Canada produced, and interrogated, Whether the seals appearing on those two productions are, in the declarant's opinion, impressions of the same seal with those attached to the document No. 83 of process? Declares, That he thinks they are the same. Interrogated, When he sent his son to Paris for the document? Declares, As in the condescendence, that it was in October 1837. And declares, That after communicating to his agents and lawyers in London the discovery of the document, they suggested to him the propriety of getting the signatures and writings on the map duly verified in France. And on this declaration being read over to him, the declarant is satisfied that the settlement of his accounts, and the date of his obligation to Madlle. Le Normand, could not have been long before the discovery of the document, and must have been in 1837.

(Signed) STIRLING.
D. BOYLE, *I. P. D.*

APPENDIX.

Copy LETTER produced by the Declarant, referred to in the foregoing Declaration.

Je viens d'apprendre Mademoiselle que vous vous interessez vivement au succes d'un Anglais qui réclame comme descendant du Comte de Stirling l'héritage de son ancêtre en Amérique. Si les autographes que j'ai l'honneur de vous envoyer peuvent le faire réussir, je serai enchanté d'avoir pu trouver une occasion de vous faire plaisir en lui rendant service, et de m'acquitter en même temps un peu des obligations

que je vous ai. Je suis faché cependant que les devoirs d'une place que j'occupe aujourd'hui ne me permettent pas de me faire connaître dans cette affaire du Lord de Stirling. Vous qui en savez beaucoup ne serez point surprise qu'un homme en place n'ose pas y intervenir *ouvertement.*

J'ai déjà dit que je vous ai des obligations. Oui, Mademoiselle, j'en ai et j'ai eu l'avantage plus d'une fois de vous consulter; même à une epoque lorsque j'êtais menacé d'une grande disgrace ce fut vous qui me sauvâtes par un èclaircissement utile donné à propos. Vous n'avez pas obligé un ingrat. Je rends en toute occasion justice à vos talens, et je vous serai toute ma vie devoué et reconnaissant.

Vous pensez bien que je n'ai acheté cette vieille carte du Canada que pour les autographes qui sont fort curieux. L'apostille en marge de la Note de Mallet (dans le coin à droit) est dit-on de Louis XV. Les autographes de Fenelon et de Flechier ne sont pas moins précieux, et le marchand qui me vendit la carte in 1819 m'assura qu'elle avait appartenue à Louis XVI. ce que paraît assez probable d'après ce que je viens de dire de l'apostille de son aÿeul. Le marchand démeurait en 1819 sur le quai Voltaire, mais depuis tant d'années il s'est fait bien des changemens et son nom m'a échappé.

Agreez, Mademoiselle, l'hommage des sentimens distingués que je vous ai voués et que vous méritez si bien.

M.

Versailles, le 10 *Juillet* 1837.

Je charge des personnes de confiance de ce paquet. Elles iront vous consulter : Ne soyez donc pas étonnée de le trouver sur quelque table ou chaise dans votre cabinet.

No. VII.

SECOND DIVISION.

JAN. 3, 1839.

REPORT AND ADDITIONAL PRODUCTIONS

IN CAUSA

THE OFFICERS OF STATE

AGAINST

ALEXANDER.

"*Edinburgh, December* 22, 1838. — The preceding Excerpts having been produced in process, the Lords, on the motion of the Lord Advocate, Appoint the original letters to be exhibited to the Clerk of Court, and direct him to compare the same with these Excerpts, and to report on such points thereanent as he shall find proper for the information of the Court: And Appoint the Excerpts, with the report thereon, to be printed and boxed *quam primum.*

(Signed) "D. BOYLE, *I.P.D.*"

REPORT AND ADDITIONAL PRODUCTIONS

IN CAUSA

THE OFFICERS OF STATE

AGAINST

ALEXANDER, calling himself EARL OF STIRLING.

IN pursuance of the above order of the Court, the original letters from Mr Eugene John Alexander to his father, of which excerpts had been produced in process, have been exhibited to me, and compared with the excerpts, and I have to report as follows:

The first of the two letters dated "London, April 22d," is written on a half sheet of common post paper; the address on

the back is partly obliterated, and entirely covered over with slips of paper, with the exception of the words, " A Paris."

On the contents of this letter I have only to observe, that between the words " that I have received," and the words, " new evidence yesterday," one word, of three or four letters, has been lost, in consequence of a perforation made by tearing or rubbing out the substance of the paper at that spot.

The second letter, dated " London, April 23d, 1837," consists of two sheets of post paper. On the three first pages of the first sheet is contained the letter from which excerpts have been produced. The second sheet contains copies, in a different hand, of the five documents therein referred to. These occupy three pages; and on the fourth page the address has been written, but is now obliterated and covered over, except the words, " A Paris."

The first and second of these sheets are of different kinds of paper, and that the first was enclosed in the second there is no evidence, but their general correspondence in size. It is only from the first sheet that excerpts have been produced, the contents of the second being the five documents produced in process, and already printed.

Of the letter itself, a great many lines and passages have been either obliterated or covered by slips of paper. The places and extent of these omissions will be best understood by the annexed transcript of the excerpts, in which corresponding spaces have been left. A few words, not given in the excerpts, but which are not obliterated on the original, have been given in this transcript.

In examining the post marks on these letters, I have availed myself of the skill of Mr Bokenham, superintending president of the inland department of the London Post Office, and of Mr Joseph Moule, president of the general sorting office in Edinburgh, both of whom have been intimately conversant in the business of their departments. On their authority I am warranted in reporting, that the Post Office stamps impressed on these letters are genuine, and correspond with the dates of the letters. But on examining the postages marked on the second of these letters, they have expressed a confident opinion that it must have passed through the London Post Offices as a single letter; and that the second sheet, above described, could not have contained within it the other sheet on which the letter of April 23, 1837, is written.

(Signed) THO. THOMSON.

EXCERPTS from Letters from Mr EUGENE JOHN ALEXANDER, Son of the EARL OF STIRLING, to his Father.

London, April 22*d.*

26. I have your 24.

My Dear Father,

At ¼ to seven to-night, I write a few hasty lines to say, that I received ..... new evidence yesterday, and ever since have so occupied as not to be able to do any thing —not write a letter. It contained 4 documents, and a beautiful portrait of John of Antrim ..... haste.

I will write on Monday *full* particulars.

Your affectionate Son,
E.

I opened this letter again
from the misdirection.
(R. 24th.)

No. 27. *London, April* 23*d*, 1837.

My Dear Father,

You will receive my 26 of yesterday with the great news of the new evidence. I now proceed to give you full particulars. I received your last (24,) on Friday morning, and went to Golden Square to see W. Pearson and Angela. It was on my return home that I called at De Porquet and Co. about 2 o'clock, when the young man at the counter said, that they had received a packet by the 2d post about an hour before I called, which he put into my hands. It was directed to Messrs De Porquet and Co. 11, Tavistock St. Covent Garden, London. They had opened it, and found the following note with another packet, addressed "The Right Honble. the Earl of Stirling." The note was as follows, in a lady's hand, without disguise, "Mrs Innes Smyth's compliments," &c. (here the note is copied.) I took the packet with the cover and note to De Porquet just as they received it.

in my pocket upon my getting home,
and taking off the cover to De Porquet, I
read again the note, and examined the packet addressed to you

I sat to consider what I would do. It all at once struck me, that I would go before a magistrate, or some other public

functionary, to have his testimony of being present at the breaking of the seal. I then went to Lockhart, (who is living close by me, having taken lodgings in Surrey St.)

To resume and consulted with him. He highly approved of my idea, and advised me to go to our solicitors, Fennell and Vaux, and ask them, as English lawyers, whether it was the proper mode of proceeding to go to a magistrate. I saw Fennell, and after long debating, he said that never having had any thing similar to it before, he really did not know what to advise. It was too late that night to get any thing done. We then fixed 10 o'clock yesterday morning for Lockhart and all of us to meet at their office. We decided at last when we met, that a public notary was the proper person to open the packet. Fennell and I then got into a cab, and to the great notaries of the Royal Exchange. The packet was then opened, and within it another packet cased in parchment, was discovered with the following words upon it, "Some of my wife's family papers." In an instant, I exclaimed, "That is my grandfather's handwriting!" The parchment packet was sealed with three black seals—all the same impression, evidently my grandfather's seals,—not like those we have. I cannot describe them. We then examined the cover—it was addressed to you as before mentioned, and inside are the following remarkable words:—"The enclosed was in a small cash box," &c. (here copied at length.) Here follows the notary's certificate upon the same paper, "This note was opened in my presence," &c. (here the certificate is copied.) The sheet of paper is a mourning one, with a deep black edge round, owing to the death of the thief. The notary then said his duty ended there; as he could not venture to witness the parchment packet, he said we must go to Doctors' Commons before a Proctor. We then went to the Proctor, Thomas Blake. Here we were five hours. I cut the parchment, and four persons as witnesses watched me. I cut over the middle black seal, and was then able to draw out the contents. I refer you now to the copies of the documents accompanying this letter; they have all been numbered by the Proctor,-1, 2, 3, 4, 5. No. 4, Lockhart tells me, we need not produce in Court, because it

is only a beautiful miniature painting of John of Antrim, which I had better perhaps get framed, that it may not be spoiled. There is also the pedigree beautifully executed both by the same person, Mr Thomas Campbell, and dated 1759.

The contents of the parchment packet must, I suppose, have remained untouched, if it was put up just before the removal to Fair Hill, 50 years—which accounts for the admirable state of preservation it is in. The thief never dared break the seals. The Proctor and the other three witnesses have put their initials upon every document, and a formal paper has been drawn up and signed by all 4, to prove that they all saw the packet opened.

The Proctor also made verbatim copies of every document, which have been compared with the originals, and signed by the examiners.

You will see that the inscription is now made a good document, being confirmed by the letters of B. Alexander, and A. E. Baillie.

The cause is enrolled to be heard on the 31st of May.

Seventeen lines covered.

Good news to-day that reassure her. I must close for want of room.

In haste your affectionate son,

(R. 26.) E. I. A.

On page 4th, a P.S. of six lines, covered over.

No. VIII.

SECOND DIVISION.

FEBRUARY 28, 1839.

SUPPLEMENTAL REPORT AND PRODUCTIONS

IN CAUSA

THE OFFICERS OF STATE

AGAINST

ALEXANDER, EARL OF STIRLING.

"*Edinburgh, December* 22, 1838. — The preceding Excerpts having been produced in process, the Lords, on the motion of the Lord Advocate, appoint the original letters to be exhibited to the Clerk of Court, and direct him to compare the same with these Excerpts, and to report on such points thereanent as he shall find proper, for the information of the Court; and appoint the Excerpts, with the Report thereon, to be printed and boxed *quam primum*.

(Signed) "D. BOYLE, *I.P.D.*"

SUPPLEMENTAL REPORT AND PRODUCTIONS

IN CAUSA,

THE OFFICERS OF STATE, *Pursuers,*

AGAINST

ALEXANDER, EARL OF STIRLING, *Defender.*

Edinburgh, February 12, 1839. — Since the date of the foregoing Report, there has been transmitted to me a letter, addressed by the solicitors in London for Lord Stirling, to Lieut.-Col. Maberly, with a certificate indorsed thereon by one of the officers in the foreign department of the Post-Office, relative to the post-marks on the letter of the 24th April,

1837; as also a letter from W. W. Pearson, Esq. the gentleman who is stated to have transcribed the copy of the documents sent to France to Lord Stirling, dated January 25, 1839, of which letters and certificate copies are annexed.

(Signed) THO. THOMSON.

LETTER *from Messrs Tennant, Harrison, and Tennant, Solicitors, London, to Lieut.-Col. W. L. Maberly.*

SIR, *Gray's Inn, 14th Jan.* 1839.

The enclosed letter contained a document of great importance, which was produced by the Earl of Stirling on his examination in the Court of Session at Edinburgh. His Lordship was afterwards requested to produce the letter containing the document. And on producing the enclosed, an objection was taken that the enclosed, being charged a single postage in London, could not contain the document produced in Court. It appears, however, that the French postage is for a double letter; and we have to request you will please to direct a certificate to be granted, that although a single postage only was charged in London, yet that, from the French post-mark, it is believed the enclosed letter did contain an enclosure. We remain, Sir, your very obedient servants,

(Signed) TENNANT, HARRISON, AND TENNANT.

Order of Reference to Mr Wagstaff.

Mr Wagstaff will have the goodness to explain the post-marks on the accompanying letter to the gentleman who brings this letter.

By order of Col. Maberly,

(Signed) F. ABBOTT.

CERTIFICATE *by Mr Wagstaff, President of the Foreign Department of the General Post-Office, London.*

The figure 10 on the right hand upper corner of the letter is the postage charged by this office against that of France, (10d.) — the 30 is the postage charged in France to the party to whom the letter is addressed, (30 decimes,) which is the

postage usually charged for a double letter in that country, (France.)

It is not improbable, then, a double letter may have been passed in this office as single.

Foreign Post-Office, (Signed) C. D. WAGSTAFF.
14*th Jan.* 1839.

The letter bears the London stamp of the 24th April, 1837.
(Signed) C. D. W.

LETTER *from William Wilberforce Pearson, Esq. to Mr Charles Alexander, Son of the Earl of Stirling.*

Scraptoft Hall, near Leicester,
MY DEAR ALEXANDER, 25*th January*, 1839.

You request me to write word of all that I remember respecting a copy which I once made of some evidence which came through M. De Porquet; and also if I recollect any thing respecting the paper which I used for the purpose.

Your brother Eugene called upon me in Golden Square one Saturday evening in April, two years ago, informed me of having obtained some new evidence, and requested me to call upon him the following morning, in order that he might shew it to me. I did so. The packet was a small one, enclosed in a case of vellum, having "Some of my wife's family papers" inscribed on it. I offered to assist him in making copies of it, and perfectly remember making him hunt about every where to find me the largest sheet of paper he could, in order that I might get the whole of it in without difficulty. When I had completed it, I saw your brother Eugene write a letter to your father, and putting up the two letters together, (viz. my copy, and his letter,) seal them, and direct them to your father at Paris. I can swear to this, because I remarked to him at the time the great expense of sending such a double letter to Paris. He sealed at the same time some other letters to Scotland, &c. and we left his lodgings together, with the letters, in order that he might put them into the post. I once more repeat, that I saw him put up together and seal my copy of the evidence and his letter to Lord Stirling.

I fear I should have a bad chance in Edinburgh if engaged in a law-suit, for I have now in this portfolio four different

kinds of writing paper, and two different kinds of foreign letter paper in my closet of two different sizes.

If my statement can be of any service to you, I shall be very glad; but I trust it will not force me to come to Scotland at such a season, leaving Angela and the children quite unprotected and alone. Believe me, yours very sincerely,

(Signed) W. W. Pearson.

No. IX.

Copy of the Minutes of Election of James, Viscount of Strathallan, as one of the Sixteen Peers of Scotland, in the room of the deceased Alexander, Earl of Balcarres.*

At the Palace of Holyrood House, in Edinburgh, the 2nd day of June, 1825, in obedience to His Majesty's royal proclamation, of date, at Carlton House, the 20th day of April last, commanding all the Peers of Scotland to assemble and meet, at this place, this day, between the hours of twelve and two in the afternoon, to nominate and choose a Peer of Scotland, to sit and vote in the House of Peers of this present Parliament of the United Kingdom of Great Britain and Ireland, in the room of Alexander, Earl of Balcarres, deceased; the Peers of Scotland did assemble between the hours of twelve and two in the afternoon, and the meeting was opened with prayer.

The said proclamation, and certificate of publication thereof at the market-cross of Edinburgh, the 6th day of May last, were read; after which the Lord Register's commission, nominating Sir Walter Scott, Baronet, and Colin Mackenzie, Esquire, two of the principal Clerks of Session, and in case of their absence, any other two of the said principal Clerks of Session, to be Clerks of the Meeting, dated the 21st, and registered in the books of Session the 24th day of May last, was produced. The long or great roll of the Peers of Scotland was called over, except those that stand attainted of high

* Register of Elections of Peers, Vol. II. fol. 228.

treason. Upon the title of Earl of Mar being called, Lord Nairne protested in the same terms as at the election of Lord Napier, on the 8th of July, 1824, respecting the place of the Earl of Mar on the roll.

Upon the title of EARL OF STIRLING being called, Alexander Humphrys Alexander claimed to vote as EARL OF STIRLING, as being heir male of the body of HANNAH, COUNTESS OF STIRLING, who was lineally descended from WILLIAM, FIRST EARL OF STIRLING, and who died on the 20th day of September, 1814, and thereby, under the destination of a royal charter or letters patent of Novo-Damus, under the Great Seal of Scotland, dated 7th December, 1639, granted by His Majesty King Charles the First, in favour of WILLIAM, EARL OF STIRLING, entitled to the honours and dignity of EARL OF STIRLING; and his vote was received by the clerks.

The Peers who answered to their titles, were the

Earls of Stirling,
—— of Leven,
—— of Glasgow,
Viscount of Strathallan,
Lords Forbes,
——— Elibank,
——— Rollo,
——— Nairne.

The oaths and declarations required by law were administered to, and subscribed by, the Peers present.

There was produced a proxy by the Earl of Mar to Lord Nairne.

There were produced signed lists by the Peers following, directed to the Lord Clerk Register, or Clerks officiating at the meeting; and with these lists, the documents and instructions of the Peers subscribing, being qualified as by law directed.

Signed lists by the Duke of Athol,
Earls of Moray,
—— of Kellie,
—— of Elgin,
—— of Aboyne,
—— of Dunmore,
—— of Rosebery,
Viscounts of Kenmure,
———— of Arbuthnott,
Lords Gray,
—— Cathcart.

There was made out a list of the Peers present, of the proxy, and signed lists; and the votes of the Peers present being called for, they all voted for James, Viscount of Strathallan. Lord Nairne, as proxy for the Earl of Mar, voted for James, Viscount of Strathallan. And the signed lists, having been examined, were all found to name James, Viscount of Strathallan. Thereafter, the Clerks officiating having collected the votes of the Peers present, and of the proxy, and votes given in the lists, they made the certificate or return of the election, which they signed and sealed in the presence of the Peers electors, in favour of James, Viscount of Strathallan, to sit and vote as one of the sixteen Peers of Scotland in the present Parliament of the United Kingdom of Great Britain and Ireland, in the room of Alexander, Earl of Balcarres, deceased; and of the said return the Clerks officiating signed two duplicates on parchment, one to be immediately transmitted to the Clerk of the Crown, directed to him at his office, Chancery-lane, London; and the other, to guard against any accident happening to the first, and in the mean time, to be placed among the records in His Majesty's General Register House, to manifest this election.

The meeting then dissolved with prayer.

(Signed) WALTER SCOTT.
COLIN MACKENZIE.

Extracted from the Records in His Majesty's General Register House, upon this and the six preceding pages of stamped paper, by me, one of the keepers of these records, having commission for that effect from the Lord Clerk Register.

WILLIAM ROBERTSON.

The election is thus certified by the Clerks of Session to the Court of Chancery, viz.

"*At Holyrood House*, in Edinburgh, the second day of June, one thousand eight hundred and twenty-five years, *in obedience* to His Majesty's Royal proclamation, of the date at Carlton-house, the twentieth day of April last, commanding all the Peers of Scotland to assemble and meet at this place this day, between the hours of twelve and two in the afternoon, to nominate and choose a Peer of Scotland, to sit and vote in the House of Peers of this present Parliament of the United

Kingdom of Great Britain and Ireland, in the room of Alexander, Earl of Balcarres, deceased, We, Sir Walter Scott, Baronet, and Colin Mackenzie, Esq. two of the principal Clerks of Session, by virtue of a commission granted to us, the said Sir Walter Scott, and Colin Mackenzie, or, in case of absence, any other two of the said principal Clerks of Session, by the Right Honourable William Dundas, Lord Clerk Register of Scotland, dated the twenty-first, and registered in the Books of Session the twenty-fourth day of May last, appointing us to officiate in his name at the said meeting of the Peers, do hereby certify and attest, that after the oaths and declarations required by law to be taken by the Peers present, were administered to them, and their votes, with those of the proxies and signed lists of the absent Peers, collected and examined, James, Viscount of Strathallan, was elected and chosen to sit and vote in the House of Peers of this present Parliament of the United Kingdom of Great Britain and Ireland, in the room of the said Alexander, Earl of Balcarres, deceased. In witness whereof, we have signed and sealed these presents with our hands, in presence of the Peers electors, place and time above-mentioned.

"WALTER SCOTT. (L.S.)

"COLIN MACKENZIE. (L.S.)"

Copy of the Minutes of Election of the Sixteen Peers of Scotland, 2nd September, 1830.

At the Palace of Holyrood House, in Edinburgh, the second day of September, one thousand eight hundred and thirty years: — In obedience to His Majesty's Royal proclamation of the date at Westminster, the twenty-fourth day of July last, commanding all the Peers of Scotland to assemble and meet at this place this day, between the hours of twelve and two in the afternoon, to nominate and choose the Sixteen Peers of Scotland to sit and vote in the House of Peers in the ensuing Parliament of the United Kingdom of Great Britain and Ireland, — the Peers of Scotland did assemble between the hours of twelve and two in the afternoon, and the meeting was opened with prayer. — The proclamation, and certificate

of publication thereof at the Market-cross of Edinburgh, upon the twenty-ninth day of July last, was read. After which, the Lord Clerk Register's commission, nominating Thomas Thomson and Adam Rolland, Esquires, two of the principal Clerks of Session, and in case of absence, any other two of the said principal Clerks of Session, to be Clerks of the meeting, dated the nineteenth, and registered in the books of Session the twentieth days of August last, was produced.

The long or great roll of the Peers of Scotland was called over, except those who stand attainted of high treason. The peers who answered to their titles were,

[Here follow the names of the Peers present.]

On the name of the EARL OF STIRLING being called, the Earl of Rosebery stated, "He should not oppose the reception of the list signed by the gentleman who had assumed the title of EARL OF STIRLING, particularly as his vote had been admitted on a former occasion. But at the same time, he was desirous of expressing an opinion, that it would be far more consistent with regularity and propriety, were those individuals who conceived they were entitled to dormant Peerages, to make good their claims to them before the House of Lords, previous to taking the titles, and exercising the privileges attached to them."—To which it was answered by the Clerks, that his Lordship's statement should be entered in the Minutes.

The oaths required by law were administered to, and subscribed by, the Peers present.—There were produced proxies for the Peers after-named, with the documents and instructions of their having qualified as by law directed, viz. by the

[Here follow the names.]

There were produced signed lists sent by the Peers following, together with the documents and instructions of the Peers subscribing being qualified as by law directed, viz. by the

[Here follow the names, and among them]

14. EARL OF STIRLING.

There was made out a roll of the Peers present, and of the proxies and signed lists; and the votes of the Peers present being called for,

[Here follow the names.]

And the signed lists, having been examined, were found to name as follows, viz.

[Here follow the names, and among them,]

The signed list of the EARL OF STIRLING named

The Marquesses of Queensberry,
——————— Tweeddale;
Earls of Erroll,
——— Morton,
——— Home,
——— Elgin,
——— Northesk;
Viscounts of Arbuthnott,
——————— Strathallan;
Lords Forbes,
—— Saltoun,
—— Gray,
—— Sinclair,
—— Colville,
—— Napier,
—— Belhaven,
&c. &c. &c.

Thereafter, the Clerks officiating having collected the votes of the Peers present, and of the proxies and signed lists, they made the certificate or return of the election in favour of the

Marquesses of Queensberry,
——————— Tweeddale;
Earls of Errol,
——— Morton,
——— Home,
——— Elgin,
——— Northesk;
Viscounts of Arbuthnott,
——————— Strathallan;
Lords Forbes,
—— Saltoun,
—— Gray,
—— Sinclair,
—— Colville,
—— Napier,
—— Belhaven;

To sit and vote as the sixteen Peers of Scotland in the ensuing Parliament of the United Kingdom of Great Britain

and Ireland; and of the foresaid return, the Clerks officiating, in presence of the Peers electors, signed and sealed two duplicates on parchment, one duplicate to be immediately transmitted to the Clerk of the Crown, directed to him at his office, Chancery-lane, London, and the other duplicate in order to guard against any accident happening to the first, being in the mean time lodged with the Lord Clerk Register's deputies for keeping the Records, to be by them placed among the Records in his Majesty's General Register House, to manifest this election: and then the meeting dissolved with prayer.

(Signed) THOS. THOMSON.
AD. ROLLAND.

After the preceding Minutes had been drawn up, the Agent for ALEXANDER, EARL OF STIRLING, tendered a written statement, entitled a Protest, and intended as an answer to the observations of the Earl of Rosebery, above recorded. That statement is now put up with the other papers relative to this election, and is docqueted as relative hereto.

(Signed) THOS. THOMSON.
AD. ROLLAND.

Extracted from the Records, in his Majesty's General Register House, upon this and the fifty-nine preceding pages of stamped paper, by me, one of the Keepers of these Records, having commission for that effect from the Lord Clerk Register.

GEO. ROBERTSON.

Protest for the EARL OF STIRLING.

I, Ephraim Lockhart, Writer to His Majesty's Signet, specially authorized by ALEXANDER, EARL OF STIRLING, to do all and every matter and thing necessary and pertaining in

and to the asserting and maintaining of his right of voting at the then ensuing election meeting, for choosing the Peers to represent the whole Peers of Scotland in Parliament, considering that the said ALEXANDER, EARL OF STIRLING, is a Peer of Scotland, and as such has, by a signed list, named sixteen peers of Scotland to sit and vote in the House of Peers of the ensuing Parliament of the United Kingdom of Great Britain and Ireland, upon the calling of the great roll, and the production of which signed list, the Earl of Rosebery stated, he should not oppose the reception of the list signed by the gentleman who had assumed the title of EARL OF STIRLING, particularly as his vote had been admitted on a former occasion; but at the same time, he was desirous of expressing an opinion that it would be far more consistent with regularity and propriety, were those individuals who conceived they were entitled to dormant Peerages, to make good their claims to them before the House of Lords, previous to taking the titles, and exercising the privileges attached to them: and considering that the said statement, while it admitted the right of the said ALEXANDER, EARL OF STIRLING, to have his signed list received, and give his vote thereby, contained matter irregularly expressive of the opinion of an individual Peer, and although received by the deputies of the Lord Clerk Register, officiating at the election meeting, was nevertheless invidious towards the person to whose case it referred, as well as derogatory to the dignity of the Peers of Scotland generally, in assuming to dictate to them that they ought to submit the *jus sanguinis* for their honorial successions, to previous determination before a tribunal which is invested with no original right of jurisdiction either by the law or by the constitution: — Wherefore, I, the said Ephraim Lockhart, specially authorized as aforesaid, do hereby protest against the opinion of the said Earl of Rosebery, expressed in the said statement, and maintain that the said ALEXANDER, EARL OF STIRLING, ought not to make good his claim of Peerage before the House of Lords, which to do, would be to confess a doubt of his own character, do what in him lay to surrender the rights of the Peers of Scotland, and concede a jurisdiction, which, in any case of Scottish Peerage, is not recognized by the Act of Union, or made imperative by any other statute of the Legislature: — Whereupon I, specially authorized as aforesaid, take instruments in the hands of Mr George Robertson, Deputy Keeper of the Records of Scotland, at Holyrood

House, this second day of September, one thousand eight hundred and thirty years.

(Signed) EPH. LOCKHART.

A true copy of the original Protest tendered by me to the Deputies of the Lord Clerk Register, written on these three pages.

EPH. LOCKHART.

Copy of the Protest against the officiating Clerks at the Peers' Election, 3d June, 1831, by the Duke of Buccleuch and the Earl of Lauderdale; with the EARL OF STIRLING'S *Answer thereto.*

COPY of the Protest against the officiating Clerks receiving and giving efficacy to the Votes of a person claiming to be EARL OF STIRLING, at this Election.

First, Because, when we reflect that the House of Lords, in the case of a former claimant to the title of EARL OF STIRLING, 'resolved, that it is the opinion of this House that 'the said William Alexander ought, to all intents and pur- 'poses, to be considered as having no right to the said title by 'him assumed, until he shall have made out his said claim, and 'procured the same to be allowed in the legal course of deter- 'mination; and that in the mean time, until the same shall be 'so allowed, the said William Alexander, or any person 'claiming under him, shall not be admitted to vote by virtue 'of the said title at the election of any Peer of Scotland 'to sit and vote in this House pursuant to the Articles of 'Union.'

It appears to us evident that the same principle applies to the case of the present claimant of that Earldom, and ought to have guided the Clerks officiating under a commission from the Lord Register, in rejecting his votes, until the same be allowed in the legal course of determination.

Secondly, Because to us it appears that if the claim of the person who voted at this election, under the title of EARL OF STIRLING, is founded on an alleged patent to heirs male, it was his duty to have proved before tendering his votes, that he did not claim as descended from or connected with the said William Alexander; and that without satisfactory evidence

to establish this fact, the Clerks of Session, under the resolution of the House of Lords, cannot be justified in receiving and giving efficacy to his votes.

Thirdly, Because if the claim of the person who on this occasion has assumed the title of EARL OF STIRLING, is founded on an alleged patent to heirs general of the original patentee, we know that under these circumstances there are others who have a preferable claim to that dignity. Besides, we have great reason to suspect the authenticity of the documents, such as they are, on which the claimant is said to rest his assumption of that title.

(Signed) BUCCLEUCH AND QUEENSBERRY.
LAUDERDALE.

Copy of the EARL OF STIRLING'S *Answer to the above Protest.*

ALEXANDER, EARL OF STIRLING, answered to the Protest of the Duke of Buccleuch and Queensberry and the Earl of Lauderdale,

First, That the first reason of Protest is without application, and wilfully perverted in its statement, for the purpose of misrepresentation — inasmuch as the resolution of the House of Lords there cited, that William Alexander, assuming the title of EARL OF STIRLING, should not be admitted to vote by virtue of the said title until it was allowed by law, proceeded from the cause that he was at that very time claiming the same title by petition before the House, and as such, until the House had decided upon his petition, he could not be warranted in its assumption, or in exercising any of its privileges. The principle, therefore, acted upon with reference to the said William Alexander, is foreign to the case of the respondent, who has no claim depending for the judgment of the House of Lords. Farther, the respondent is lineally descended of a son of the FIRST EARL OF STIRLING, while the said William Alexander only claimed as an heir-male by a dubious collateral descent.

Secondly, That the allegation that the Clerks, under the said Resolution of the House of Lords, could not be justified

in receiving and giving efficacy to the respondent's vote, is contrary to the facts which were particularly stated when the respondent first claimed to vote, on which occasion the said Resolution was publicly read, and explained to have no reference to the respondent. And the respondent having already done all that is required by the law of Scotland, to prove his descent from the First EARL OF STIRLING, is not bound to prove further the line of descent from any collateral presumptive heir to the said Earl.

Thirdly, The noble protesters were much mistaken in supposing, in the third reason of protest, that the respondent claimed as heir general of the original patentee. He claimed in quite another character; and the unfair and unwarrantable inference there made with reference to the authenticity of the documents in support of that character, is irregular and irrelevant, as well as false, groundless, and malicious; and their selection of the respondent's case for an invidious attack, while there were several cases of Peerages within the late resolution of the House of Lords, as to which no objection was offered to the votes given, was evidently vexatious, and compatible only with a disposition to go any length to answer particular private and political purposes. The interference of the noble protesters on the occasion in question, was inconsistent with their previous approbation of the respondent's right of voting, both of them having been personally present at the general election that took place at Holyrood House on the 2nd day of September last past, as well as other Peers, who all, by their silence, then gave their unqualified sanction to the legal principle of the respondent's right in pursuance of his former admission to vote *causa cognita*.

Separately, The respondent takes leave to submit, that the mere announcement of a protest, for reasons to be afterwards assigned, as his Grace the Duke of Buccleuch stated at the time, was in itself null and inefficacious, as the reasons ought to have been set forth before the Parliamentary meeting had been dissolved, when His Majesty's commission was terminated, and all the privileges of the Peers, as to the business of the election, were virtually at an end.

(Signed) STIRLING.

Edinburgh, 4th June, 1831.

TRIAL

OF

ALEXANDER HUMPHRYS, OR ALEXANDER,

STYLING HIMSELF

EARL OF STIRLING.

HIGH COURT OF JUSTICIARY.

TUESDAY, APRIL 3, 1839.

THE COURT MET AT TEN O'CLOCK.

PRESENT.

LORDS MEADOWBANK, M'KENZIE, MONCREIFF, MEDWYN.

Counsel for the Crown. — ANDREW RUTHERFURD, Esq. Solicitor General; COSMO INNES, ROBERT HANDYSIDE, and ARCHIBALD DAVIDSON, Esquires, Advocates Depute; DAVID CLEGHORN, Esq. W.S. Agent.

Counsel for the Pannel. — PATRICK ROBERTSON, and ADAM ANDERSON, Esqs.; Agent *absent.*

The pannel took his place at the bar, accompanied by Ephraim Lockhart, Esq. W.S. his agent in the civil actions.

After the usual forms had been gone through, Lord Meadowbank thus addressed the pannel: — Alexander Humphrys or Alexander, calling yourself the Earl of Stirling, you have been served with a copy of the libel, charging you with the crime of forgery, and of fabricating certain documents, knowing them to be forged. Are you guilty or not guilty of this offence?

Pannel. — Not guilty, my Lord.

The defence of the prisoner was then read, which denied that he had the slightest ground to suspect that the documents were forged or fabricated, and set forth that he had produced them under legal advice. It stated that he was not in a condition to go to trial, as one of his counsel and his agent had gone to Paris to prepare evidence for his defence, — that he was unable to furnish any list of witnesses, and moved the Court for delay, after determining upon the relevancy of the indictment, and that additional defences would be lodged in due time.

Mr Patrick Robertson. — My Lords, I have now to move the Court to delay the trial. There is no objection to the relevancy on the part of the prisoner: and before the interlocutor on the relevancy is pronounced, I move the Court not to proceed at present with the trial, on grounds which appear to us essential for the ends of justice. In the indictment, the forgery is said to have been committed between the 21st of December, 1836, and the 27th of July, 1837, a considerable period of time; then in all, there are thirty-eight witnesses for the prosecution, and fifty-three productions. Of the witnesses two of them are described as resident in London; five of them are French witnesses, three of whom are stated to have come to Edinburgh lately, and other two have arrived only within the last two or three days. As soon as the indictment was served, the Counsel for the Earl of Stirling directed their attention to the proceedings. We looked at such productions as were made, as soon as they came into our hands, (and some of them were not made till yesterday,) and after full consideration, it appeared to us essential that one of our junior Counsel and agent, should proceed to London and Paris, to make inquiries necessary for the defence. They have been in London some time, exclusively employed in the investigation, and left London for Paris on Monday last. We are of opinion that we cannot proceed to trial before the first week in May. Your Lordships will see from the extent of the inquiry, and the distance between this and Paris, that we ask for no unjustifiable delay on the part of the prisoner.

Lord Meadowbank. — The Sacrament is dispensed in Edinburgh on the first week in May. If it were to be taken in the first week in May we would be interrupted by the fast day. We can therefore neither take the Thursday nor the Friday. If we were to take the Monday after, from the number of witnesses to be examined, the trial may be continued till Friday or Saturday; and Monday the 6th May, is the middle of the Glasgow Circuit.

The Solicitor General. — My Lords, I have no objections to offer to the motion for delay generally; but I beg to state, in reference to one of the grounds stated, namely, that we were late in making the productions, that my learned friend is aware that the greater part of the productions were made at an unusually early period. One of them, of great consequence in the case, was not lodged so soon, because it was not in our hands till yesterday, or the day before yesterday, and it was put into the hands of the prisoner's Counsel, as soon

as we got it, for the purpose of enabling them to facilitate their preparation. Though they had not the production itself, they had a copy of it, which gave them all the requisite information; and accordingly they did use some despatch in sending one of the Counsel, and the agent, to Paris. Now in regard to the day of trial, I have to say that it cannot be delayed beyond the 29th instant. There is no desire on the part of the Crown to hurry it on; but the interval is perfectly sufficient to enable them to be prepared with their defence. I state that day, not for the convenience of myself or the Court, but from the necessities of the Court. For myself personally, it might be more convenient to put off the trial till the 6th of May, as fixing it for the 29th instant will force me to return to Edinburgh to attend at the trial earlier than I could wish; but the necessities of the Court require that it should come on on the 29th; and I have therefore to move that day for the trial.

Mr Robertson. — In regard to the document, which is a most important one, I wished merely to state the fact that we did not see it till we went to the Justiciary Office yesterday. I have no right to dictate the day, but I do not see that there can be any objection to the motion I have submitted.

Lord Meadowbank. — Monday the 6th May is in the middle of the Glasgow circuit, and there is a great deal of business there to be got through, which must render it impossible for any of us to come here on that day.

Mr Robertson. — We are anxious to have the day so fixed that there can be no farther pretence for delay on the part of the prisoner.

Solicitor General. — The Prisoner's Counsel may be perfectly prepared by the 29th. I will take their chance. We are obliged to fix it for that day, in consequence of the necessities of the Court. It will be for my learned friend to shew grounds for continuing the diet. The Counsel and agent have been in Paris for ten days.

Mr Robertson. — They left London for Paris on Monday. They had inquiries to make in London which they conducted with all speed and anxiety, and they have important inquiries to make in Paris. I have a letter from Mr Inglis giving me an account of what they have done.

Lord M'Kenzie. — There is an immense deal of business before the Glasgow circuit, and Lord Meadowbank cannot possibly leave it.

Lord Meadowbank. — The 29th of the month is the only day which the Court, consistently with its duties, can fix.

Solicitor General.—There are but six Judges in the Court, and I can only have such a Court as there is now, and we must make some allowance in case of accidents.

Lord Moncreiff.—You have sufficient time for preparation,—three weeks from the time your counsel and agent left London for Paris.

Lord Meadowbank. — Well, delay it till the 29th.

Mr Robertson. — I do not mean to press the right, if I have the right, for a landed Jury. I shall take a common Jury.

Solicitor General. — Your Lordship will pronounce the interlocutor with respect to the relevancy of the indictment, in respect of the prisoner having waived his privilege as a landed man.

Mr Robertson. — I do not know if I have the privilege.

Lord Moncreiff. — Counsel declares that he does not mean to ask for a landed Jury.

Solicitor General. — The time of this delay, being created by the prisoner, is to be deducted from the time allowed for the running of the letters.

Mr Robertson. — Certainly.

Lord Meadowbank. — There are a multiplicity of documents referred to, and it may be necessary for the Counsel for the prisoner to have copies made for themselves at the office; or it may be necessary for the Judges to attend at the office to make themselves masters of the purport of the documents before the trial. The Crown will have no objections, I presume, to furnish for the prisoner's Counsel whatever copies of the documents they may deem necessary. I mean to ask for copies of those papers, and it is proper that this should be done with the knowledge of the prisoner's Counsel, or to go to the office to inspect them. There can be no objections, I presume, to that?

Mr Robertson. — No certainly. The most of them are printed, a great many of them were printed for the civil case. Perhaps the Crown may make a reprint of the whole.

Solicitor General. — I have no objections to make a reprint of whatever may be deemed necessary.

Mr Robertson. — A minute ought to be lodged on the part of the Crown, in regard to documents in the Register office, which we cannot bring here.

Lord M'Kenzie. — And also to give access to such docu-

ments to the prisoner's Counsel and agents at all convenient times.

The following additions to the ordinary interlocutor were then read:

3*d April*, 1839. — Thereafter, and in relation to the motion of adjournment made in the defences, to which the Public Prosecutor states no objection, the Lords continue the diet against the Pannel till the 29th day of April current, at 10 o'clock forenoon, and ordain all concerned then to attend, each under the pains of law, it being expressly declared, on the motion of the Solicitor General, and with the consent of the Pannel and his Counsel, that, as the motion for delay proceeded from the Prisoner, and was granted for his accommodation, the period of adjournment shall not be reckoned in the running of the letters of intimation. Farther, the said Lords ordain the Pannel, in the meantime, to be carried to and detained in the Tolbooth of Edinburgh.

(Signed) A. MACONOCHIE.

The names of the common Jurymen were called over, to prevent any mistake, and were summoned *apud acta* to attend on the 29th April.

INDICTMENT.

ALEXANDER HUMPHREYS or ALEXANDER, pretending to be Earl of Stirling, present prisoner in the Tolbooth of Edinburgh, you are Indicted and Accused at the instance of JOHN ARCHIBALD MURRAY, Esquire, her Majesty's Advocate, for her Majesty's interest: THAT ALBEIT, by the laws of this and of every other well governed realm, FORGERY; *as also* the wickedly and feloniously USING and UTTERING as genuine, any FORGED DOCUMENT, knowing the same to be Forged; *as also* the wickedly and feloniously FABRICATING FALSE and SIMULATE WRITINGS, to be Used as Evidence in Courts of Law, and so using the same as genuine; *as also* the wickedly and feloniously USING and UTTERING as genuine FABRICATED, FALSE, and SIMULATE WRITINGS, knowing them to be Fabricated, False, and Simulate, by producing the same as Evidence in Courts of Law; are crimes of an heinous nature and severely punishable: YET TRUE IT IS AND OF VERITY, that you, the said Alexander Humphreys or Alexander, are guilty of the said crimes, or of one or more of them, actor, or art and part: IN SO FAR AS you, the said Alexander Humphreys or Alexander, having formed the fraudulent design of procuring yourself to be recognized as Earl of Stirling in Scotland, and of obtaining certain great estates or territories in North America and Scotland, with the pretended right of conferring the honours and bestowing the titles of Baronets of Nova Scotia, as being the representative, and entitled to the honours, privileges, and estates of William First Earl of Stirling, and of procuring loans or advances of money from ignorant and credulous persons, on the faith of your being entitled to those estates and privileges, as you falsely represented, (1.) you the said Alexander Humphreys or Alexander did, in pursuance of the said fraudulent designs,

At some time and place to the Prosecutor unknown,

wickedly and feloniously forge, fabricate, and simulate, or cause and procure to be forged, fabricated, and simulated, a document or writing in the terms set forth in the Appendix No. I. hereto annexed, or in similar terms; and which, being translated into English, is of the same or similar tenor, import, and effect, as the translation set forth in the Appendix No. II. hereto annexed, which forged, fabricated, and simulate document or writing was intended by you to pass for, and be received as, an ancient and authentic excerpt, or abridged copy or abstract, of an alleged charter of *novo damus* by King Charles the First, in favour of the said William First Earl of Stirling; and you did, then and there, forge and fabricate, or cause and procure to be forged and fabricated, on

the back of the said document or writing, a certificate or docquet in the following or similar terms: — "Excerpt from the original charter to William Earl of Stirling, 7 Dec. 1639;" and you did, then and there, wickedly and feloniously forge and adhibit, or cause and procure to be forged and adhibited to the said certificate or docquet, the letters T. C. meaning the same to pass for, and be received as, the genuine subscription of Thomas Conyers of Catherlough in Ireland, or of some person to the Prosecutor unknown, or of a fictitious person: FURTHER, you, the said Alexander Humphreys or Alexander, having, on or about the 12th day of October, 1829, raised an action in the Court of Session against Dr John Watts and William Alexander Duer, in which compearance was afterwards made for His Majesty's Advocate for His Majesty's interest, for proving the tenor of the said alleged charter of *novo damus*; you did, within the Register House of Edinburgh, or within the Parliament House of Edinburgh, on the

18th day of January, 1830,

or on one or other of the days of that month, or of December immediately preceding, or of February immediately following, wickedly and feloniously use and utter as genuine the said forged, fabricated, and simulate document or writing, having thereon the said forged and fabricated certificate or docquet and subscription, you well knowing the said document or writing, and certificate or docquet, and subscription, or one or other of them, to be forged, fabricated, and simulate, by then and there delivering the same, or causing the same to be delivered by the hands of Ephraim Lockhart, writer to the signet in Edinburgh, your agent, or some other person to the Prosecutor unknown, to John Morrison, then and now or lately Assistant-Clerk of Session at Edinburgh, or to some other person in the offices of the Clerks of Session to the Prosecutor unknown, in order to its being produced as an adminicle of evidence in the said action of proving the tenor; and it was so produced accordingly: LIKEAS, (2.) the said action of proving the tenor having thereafter been dismissed by decree, dated on or about the 4th day of March, 1830; and you having, on or about the 1st day of September, 1830, raised an action of reduction-improbation and declarator in the Court of Session against William Cuninghame Cuninghame Graham of Gartmore; and you having thereafter, on or about the 2d day of September, 1830, raised in the said Court another action of proving of the tenor of the same alleged charter of *novo damus* against the said William Cuninghame Cuninghame Graham of Gartmore, and the Officers of State, and others, you did, within the said Register House or said Parliament House of Edinburgh, on the

17th day of November, 1830,

or on one or other of the days of that month, or of October immediately preceding, or of December immediately following, wickedly and feloniously use and utter as genuine, the said forged, fabricated, and simulate document or writing, having thereon the said forged and fabricated certificate or docquet and subscription, you well knowing the said document or writing, and certificate or docquet and subscription, or one or other of them, to be forged, fabricated, and simulate, by then and there delivering the same, or causing the same to be delivered by the hands of the said Ephraim Lockhart, or some other person to the Prosecutor unknown, to the said John Morrison, or to some other person in

the offices of the Clerks of Session, to the Prosecutor unknown, in order to its being produced as an adminicle of evidence in the said last mentioned action of proving of the tenor; and it was so produced accordingly: And the said last mentioned action of proving the tenor was also dismissed by decreet, dated on or about the 2d day of March, and 2d day of July, 1833: LIKEAS, (3.) you, the said Alexander Humphreys or Alexander having, in pursuance of your said fraudulent designs, procured yourself to be served heir in general of William the First Earl of Stirling, by a service expede in the Court of the Bailies of the Canongate, and retoured on or about the 11th October, 1830, and likewise to be served heir in special of the said William Earl of Stirling, in certain lands, continents, and islands in North America, by a service expede in the Court of the Sheriff of Edinburghshire, and retoured on or about the 2d day of July, 1831, and likewise to be infeft in the said lands, continents, and islands, by a sasine taken at the Castle of Edinburgh, on or about the 8th day of July, 1831, in virtue of a precept issued from the Chancery, proceeding on the retour of the said special service; and an action of reduction-improbation having been raised against you and Thomas Christopher Banks, on or about the 16th day of January, 1833, at the instance of the Officers of State for Scotland, for reducing, *inter alia*, the brieves and retours of the said general service, and special service, and the precept of Chancery and infeftment following thereon; and the record having been closed, and the said last mentioned action of reduction-improbation having come on to be debated before Lord Cockburn, Lord Ordinary; and his Lordship having, on or about the 10th December, 1836, pronounced an interlocutor appointing the cause to be enrolled, which was accompanied by a note, intimating his Lordship's intention of decerning against you in the said last mentioned action of reduction-improbation, in terms of an interlocutor, the draft of which was lodged with the clerk along with the draft of a relative note, which intention so intimated was subsequently carried into effect by interlocutor pronounced on or about the 20th December, 1836, to which was affixed a note of the same date; and having stated in the said draft note, as also in the note affixed to the interlocutor of 20th December, 1836, that the evidence for proving your alleged pedigree was unsatisfactory, defective, and insufficient, especially as to two descents there specified; you, the said Alexander Humphreys or Alexander, having formed the fraudulent design of fabricating and producing forged, false, and simulate documents or writings, which might be received as evidence in the said last mentioned action of reduction-improbation, and might supply the defects pointed out by the Lord Ordinary, and otherwise support the allegations made by you in your defence; and having proceeded to Paris, you did, within the house situated in the Rue de Tournon, at Paris, then and now or lately occupied by Marie Anne Le Normand, bookseller or fortune-teller there, at some time or times between the

21st day of December, 1836, and
The 27th day of July, 1837,

the particular time or times being to the Prosecutor unknown, or at some other time and place to the Prosecutor unknown, wickedly and feloniously forge and fabricate, or cause and procure to be forged and fabricated, upon the back of an ancient map of Canada, a writing in the following or similar terms:—

A Lyon ce 4. Aoust, 1706.

17189. & 17190. Reg. H. fo. 95. E. D.

1 Mars 1710.

'Pendant mon séjour en Acadie en 1702, ma curiosité fut 'piquée par ce que l' on me disoit d' une ancienne charte qui 'est conservée dans les archives de cette province.—C'est la 'charte de confirmation, ou 'de nouodamus,' en datte du '7 Décembre, 1639, par laquelle le Roy Charle I^er^ d'Angle-'terre renouvella en faveur de Guillaume Comte de Stirling les titres 'et dignitez qu'il luy avoit précedemment acordés et toutes les conces-'sions de terres qu'il luy avoit faites depuis 1621 en Ecosse et en Amé-'rique. Mon amy Lacroix m'en fit donner une copie que j'eus la 'precaution avant de partir de faire düement attester. De cette piece 'authentique ie vais presenter icy quelques extraits, (traduits en François 'pour l' intelligence de ceux qui ne sçavent pas le Latin,) afin que toute 'personne en ouurant cette carte de nos possessions d'Amerique puisse se 'faire une idée de la vaste estendue de territoire qui fut concédé par le 'Roy d'Angleterre à un de ses sujets. Si le sort de la guerre ou quelque 'autre evenement faisoit rentrer la Nouvelle France et l'Acadie sous la 'domination des Anglois la famille de Stirling posséderoit ces deux pro-'vinces ainsi que la Nouvelle Angleterre 'et également la totalité des 'passages et limites tant sur les eaux que sur les terres depuis la source de 'la riuière du Canada en quelqu' endroit qu'on puisse la trouver, jusqu' à 'la baye de Californie, avec cinquante lieues de terres de chaque costé du 'dit passage—et de plus toutes les autres terres, limites, lacs, riuières, 'détroits, bois, forêts et autres qui pourront estre a l'auenir trouués, 'conquis, ou decouuerts par le dit Comte, ou ses heritiers.'—Voicy enfin 'l' ordre de succession à cet heritage.—1°.—Aux titres de noblesse ('de 'nouodamus, etc) '..... au susdit Guillaume Comte de Stirling et aux 'héritiers-mâles descendant de sa personne—à leur défaut aux aînées des 'héritières' (heredibus femellis natu maximis) sans diuision du dernier 'des susdits heritiers-mâles, et aux heritiers-mâles, descendant de la per-'sonne des dites héritières respectivement, portant le surnom et les armes 'd'Alexander, et au défaut de tous ces héritiers aux plus proches héritiers 'quelconques du dit Guillaume Comte de Stirling'—(Icy suivent les titres, 'etc) 2°. Aux possessions territoriales, ('de nouodamus, concedimus, 'disponimus, proque nobis et successoribus nostris, pro perpetuo confir-'mamus') 'au susdit Guillaume Comte de Stirling et aux héritièrs-mâles 'descendant de sa personne,—à leur defaut aux aînées des héritières, sans 'diuision du dernier des susdits mâles qui succédera cy-après aux susdits 'titres, honneurs, et dignitez, et aux héritiers-mâles descendant de la per-'sonne des susdites héritières respectivement, portant le surnom et les 'armes de la famille Alexander, qu'ils seront tenus et obligés de prendre' 'etc. etc. Ainsi le Roy d'Angletterre a donné au Comte et a asseuré à 'ses descendants, en perpétuité, assez de terres pour fonder un puissant 'empire en Amérique.'

And you did, then and there, wickedly and feloniously forge and adhibit, or cause and procure to be forged and adhibited, thereto, the words 'Ph. Mallet,' meaning the same to pass for, and be received as, the genuine subscription of some person to the Prosecutor unknown, or of a fictitious person; which writing, to which the said subscription was so adhibited, being translated into English, is of the following or similar tenor, import, and effect:

'*Lyons*, 4. *August*, 1706.

'During my residence in Acadia in 1702, my curiosity was excited 'by what I was told of an ancient charter, which is preserved in the 'archives of that province; it is the charter of confirmation, or, (*de novo-* '*damus*,) of date 7th December, 1639, by which Charles the First of 'England renewed in favour of William Earl of Stirling, the titles and 'dignities which he had previously conferred on him, and all the grants 'of land which he had made to him from 1621, in Scotland and in America. 'My friend Lacroix gave me a copy of it, which, before my departure, 'I took the precaution of having duly attested. From this authentic 'document I am about to present some extracts, (translated into French 'for the benefit of such as do not understand Latin,) in order that every 'person who opens this map of our American possessions may form an 'idea of the vast extent of territory which was granted by the King of 'England to one of his subjects. If the fate of war, or any other event, 'should replace New France and Acadia under the dominion of the 'English, the family of Stirling would possess these two provinces as 'well as New England, 'and in like manner the whole of the passages 'and boundaries on land and on water from the source of the river of 'Canada, wherever it may be found, to the Bay of California, with fifty 'leagues of land on each side of the said passage, and besides, all the 'others, lands, boundaries, lakes, rivers, straits, woods, forests, and others, 'which may be in future found, conquered, or discovered by the said Earl 'or his heirs.' The order of succession to this inheritance is as follows: '—1°. To the titles of nobility, (*de novodamus*, &c.) to the said William 'Earl of Stirling, and to the heirs-male of his body; whom failing, to the 'eldest heirs-female (*hæredibus femellis natu maximis*) without division, 'of the last of the said heirs-male, and to the heirs-male of the body of 'the said heirs-female respectively, bearing the surname and the arms of 'Alexander; and failing all these heirs, to the nearest heirs whatsoever of 'the said William Earl of Stirling, (here follow the titles, &c.) 2^do^. To 'the territorial possessions (*de novodamus concedimus disponimus proque* '*nobis et successoribus nostris, pro perpetuo confirmamus*) 'to the said 'William Earl of Stirling, and to the heirs-male of his body; whom failing, 'to the eldest heirs-female without division, of the last of the said males 'who shall succeed hereafter to the said titles, honours, and dignities, and 'to the heirs-male of the body of the said heirs-female respectively, bearing 'the surname and the arms of the Alexander family, which they shall be 'bound and obliged to take,' &c. &c. Thus the King of England has 'given to the Earl, and has secured to his descendants in perpetuity, 'enough of land to found a powerful empire in America:' AND,

Time and place last above libelled,

you, the said Alexander Humphreys or Alexander, did wickedly and feloniously forge and fabricate, or cause and procure to be forged and fabricated, on the back of the said map of Canada, a writing in the following or similar terms:—

'La notte cy-dessus est precieuse. Je puis asseurer qu'elle donne en 'peu de mots une idée extremement juste de la merveilleuse charte dont 'il est question. Quant à la copie de cette charte, elle est attestée par 'l'archiviste et les témoins Acadiens et doit estre entierement conforme 'au registre du Port Royal. J'avois entendu parler à Quebec des con- 'cessions au Comte de Stirling, mais mon amy M. Mallet fut le premier

'qui me procura lecture de la charte. Ce document extraordinaire 's' estend à pres de cinquante pages d' escriture, et le Latin rien moins 'que classique: Cependant comme Canadien un peu interessé en ce 'qu' il y avoit dedans je dois dire que je l' ay leu d' un bout à l' autre 'avec autant de curiosité que de satisfaction. Feu M. Mallet estoit un 'homme dont les bonnes qualitez et la rare intelligence font regretter 'que la mort l' a enlevé si subitement à ses amis. Il avoit bien prevu que 'la copie ne feroit point connoistre la charte en France. Voyla donc 'pourquoy il consceut le project d' escrire sur une des ces belles cartes 'de Guillaume de l' Isle une notte que tout le monde pust lire avec 'interest. S' il avoit vescu assez longtemps il auroit ajousté a cet 'interest, car il vouloit s' informer en Angleterre de l' estat actuel des 'descendants du Comte qui obtint les concessions et tout ce qu' on luy 'auroit mandé à leur égard auroit esté escrit sur cette mesme carte. Au 'surplus avec les deux documents qu' il nous a laissés, personne en 'France ne pourra revoquer en doute l' existence d' une telle charte.

'*A Lyon, le* 6. *Avril*, 1707.'

and you did, then and there, wickedly and feloniously forge and adhibit, or cause and procure to be forged and adhibited thereto, the words 'Caron Saint Estienne,' meaning the same to pass for, and be received as, the genuine subscription of some person to the Prosecutor unknown, or of a fictitious person; which writing, last above libelled, to which the said subscription was so adhibited, being translated into English, is of the following or similar tenor, import, and effect:—

'The above note is precious. I can certify that it gives in few words 'an extremely correct idea of the wonderful charter in question. As to 'the copy of this charter, it is attested by the Keeper of the Records '(l' archiviste) and the Acadian witnesses, and must be in entire confor-'mity with the Register of Port Royal. While at Quebec I had heard 'of the grants to the Earl of Stirling, but my friend M. Mallet was the 'first who procured me a perusal of the charter. This extraordinary 'document extends over fifty pages of writing, and the Latin any thing 'but classical; still, as a Canadian, somewhat interested in its contents, 'I am bound to say, that I read it from end to end with as much curio-'sity as satisfaction. The late M. Mallet was a man whose good qualities 'and rare understanding make us regret a death which snatched him so 'suddenly from his friends. He had foreseen that the copy would not 'make the charter known in France. Hence he conceived the idea of 'writing, on one of the beautiful maps of Guillaume de l' Isle, a note 'which all the world might read with interest. Had he lived long 'enough, he would have added to this interest, for he wished to obtain 'information in England as to the then situation of the descen-'dants of the Earl who obtained the grants; and all the information 'which he might have received respecting them he would have trans-'ferred to this very Map. But, after all, with the two documents which 'he has left to us, no person in France can question the existence of 'such a charter.

'*Lyons*, 6. *April*, 1707.'

AND,

Time and place last above libelled,

you, the said Alexander Humphreys or Alexander, did wickedly and

feloniously forge and fabricate, or cause and procure to be forged and fabricated, on the back of the said map of Canada, a writing in the following or similar terms :—

'J'ay lû dernierement chez Monsieur Sartre a Caveirac, la copie de la 'charte du Comte de Stirling. J'y ay remarqué beaucoup de particu-'larités curieuses, entremeslées d'un grand nombre de détails peu inte-'ressants. Je pense donc qu'on doit avoir de grandes obligations a 'Monsieur Mallet d'avoir mis le public François en estat de juger, par la 'note cy-dessus, de l'estendue et de l'importance des concessions faites a 'ce Seigneur Ecossois. Je trouve aussi qu'il a extrait les clauses les 'plus essentielles de la charte, et en les traduisant en François les a 'tres-bien rendues. Monsieur Caron Saint Estienne m'a prié de rendre 'ce témoignage. Je le fais avec le plus grand plaisir.

'*A Nismes, ce* 3. *Juin* 1707.'

And you did, then and there, wickedly and feloniously forge and adhibit, or cause and procure to be forged and adhibited thereto, the words 'Esprit, Ev. de Nismes,' meaning the same to pass for, and be received as, the genuine subscription of Esprit Flechier, sometime Bishop of Nismes, or of some other person to the Prosecutor unknown; which writing, last above libelled, to which the said subscription was so adhibited, being translated into English, is of the following or similar tenor, import, and effect :—

'I read lately, at the house of Monsieur Sartre at Caveirac, the copy 'of the Earl of Stirling's charter. In it I remarked many curious par-'ticulars, mixed up with a great many uninteresting details. I think, 'therefore, that the greatest obligations are due to M. Mallet for having, 'by the above note, enabled the French public to judge of the extent and 'importance of the grants made to this Scottish Nobleman. I also find 'that he has extracted the most essential clauses of the charter, and in 'translating them into French he has given them with great fidelity. 'Monsieur Caron St Estienne has asked me to bear this testimony. 'I do so with the greatest pleasure.

'*Nismes*, 3. *June*, 1707.'

AND

Time and place last above libelled,

you, the said Alexander Humphreys or Alexander, did wickedly and feloniously forge and fabricate, or cause and procure to be forged and fabricated, a letter in the following or similar terms :—

'*D'Antrim, le* 25^{me} *Aoust* 1707.

'Je ne scaurois vous dire Madame combien ie suis sensible à l'honneur 'de vostre souvenir. Je dois aussi de sincères remerciemens à Monsieur de 'Cambray puisque c'est luy qui a facilité le voyage de mon amy Monsieur 'Hovenden, et par là a estè cause que vostre lettre et la copie que vous 'avez eü la bonté de m'envoïer de la notte sur la charte de mon aÿeul 'm'ont esté rendues si vite. Je vais repondre de mon mieux aux ques-'tions que vous me faites. Je ne suis pas comme vous avez pensé 'l'héritier des titres de ma famille. Nostre chef à present est Henri 5^{me} 'Comte de Stirling, descendu du 3^{me} fils de mon aÿeul. Il démeure à

'quelques milles de Londres—n'a point d'enfans, mais il a des frères 'dont l'aîné est son héritier presomptif—Du 1er fils il ne reste que des 'descendants de ses filles. Le 2d n'a point laissé d'enfans. Mon père 'estoit le 4me fils—il epousa en premières noces une héritière de la maïson 'de Gartmore en Ecosse. Ma mère, de la famille de Maxwell, estoit sa 'seconde femme—Mais quoyqu'il ait eü des filles par la prémière, il 'n'eüt jamais d'autre fils que moy. Pour achever cette généalogie de 'famille, il faut Madame que ie vous dise que ma femme est une cadette 'de celle d'Hamilton maïson ducale en Ecosse—et qu'elle m'a donné un 'fils, nommé *John* après mon père et moy, et deux filles. J'ay si peu 'd'idée à present que les titres et les biens de Stirling puissent échoir à 'mes enfans que j'ay encouragé le goüst de mon fils pour le ministère 'de nostre Eglise d'Ecosse, et il s'y prepare en Hollande a l'Université 'de Leyde.

'Je conserveray l'interessante notte de Monsieur Mallet avec soin— 'La charte estoit enregistrée à une epoque en Ecosse aussi bien qu'en 'Acadie; mais pendant la guerre civile et sous l'usurpation de Cromwell 'des caisses contenants une partie des archives de ce roÿaume furent 'perdues en mer pendant un orage; et selon l'ancienne tradition de 'nostre famille, le registre sur lequel cette charte avoit esté inscrite fut 'au nombre de ceux que estoient perdus.

'Voyla Madame tout ce que ie puis dire en response à vos questions, 'car c'est impossible dans ce paÿs d'Irlande d'obtenir d'autres renseig- 'nements à l'egard de la charte enregistrée. Je croy que ma grandmère 'avoit donné *la charte originale* (qu'elle apporta d'Ecosse en venant 's'establir en Irlande) â son gendre le Lord Montgomerie pour qu'il la 'gardât avec soin dans Chateau Comber où il démeuroit. Je m'infor- 'meray de ce que cette famille en a pü faire, et si ie fais quelque decou- 'verte j'auray l'honneur de vous en prevenir.

'Je n'oublieray jamais Madame vos bontez pour moy, ni les charmes 'de la société que ie trouvay tousjours chez vous. Tant que je vivray, 'ie vous seray attaché avec le plus respectueux devoüement.'

And you did, then and there, wickedly and feloniously forge and adhibit, or cause and procure to be forged and adhibited thereto, the words 'John Alexander,' meaning the same to pass for, and be received as, the genuine subscription of some person to the Prosecutor unknown, or of a fictitious person, whom you represented to be your ancestor, and the grandson of the said William first Earl of Stirling; which letter to which the said subscription was so adhibited, being translated into English, is of the following or similar tenor, import, and effect:—

'*Antrim, 25th August*, 1707.

'I cannot express to you, Madam, how sensible I am of the honour 'of your remembrance. My sincere thanks are also due to Monsieur 'de Cambray, since he, by facilitating the journey of my friend Mr 'Hovenden, was the means of my being so quickly put in possession of 'your letter, and the copy which you have been good enough to forward 'to me, of the note respecting my grandfather's charter. The questions 'which you put to me, I shall endeavour to answer to the best of my 'ability. I am not as you imagine heir to the family titles. The pre- 'sent head of our family is Henry, Fifth Earl of Stirling, descended 'from the third son of my grandfather. He resides within a few miles 'of London; has no children; but he has brothers, of whom the eldest

'is his heir presumptive. Of the first son no descendants survive, 'except the issue of his daughters. The second son died without issue. 'My father was the fourth son; his first wife was an heiress of the 'house of Gartmore in Scotland. My mother, of the Maxwell family, 'was his second wife. But, although he had daughters by his first wife, 'he never had any other son but me. To complete this family genea- 'logy, I must tell you, Madam, that my wife is a cadette of the Hamilton 'family, a ducal house in Scotland, and that she has borne me a son 'called John, after his father and myself, and two daughters. I have at 'present so little idea of the possibility of the titles and estates of 'Stirling devolving on my children, that I have encouraged my son in 'his inclination for the ministry of our Church of Scotland: and in that 'view, he is now prosecuting his studies at the University of Leyden, 'in Holland. I shall preserve with care the interesting note of M. 'Mallet. The charter was at one time registered in Scotland as well as 'in Acadia; but during the civil war, and under the usurpation of 'Cromwell, boxes containing a portion of the records of that kingdom 'were lost during a storm at sea; and according to the ancient tradition 'of our family, the register in which this charter was recorded, was 'among the number of those that perished.

'Such, Madam, is all that I can say in reply to your questions, for it 'is impossible in this country of Ireland, to obtain any other information 'with regard to the registered charter. I believe that my grandmother 'gave *the original charter*, (which she brought from Scotland, when she 'came to take up her abode in Ireland) to her son-in-law, Lord Mont- 'gomery, in order that he might preserve it carefully in Castle Comber, 'where he resided. I shall ascertain what this family may have done 'with it; and I shall have the honour of acquainting you with any 'discovery which I may make.

'I shall never forget, Madam, your kindness towards me, or the 'charms of the society which I always enjoyed at your house. While 'I live I shall not cease to feel attached to you by the most respectful 'devotion:' AND,

Time and place last above libelled,

upon the margin of the forged and fabricated letter last above libelled, you, the said Alexander Humphreys or Alexander, did wickedly and feloniously forge and fabricate, or cause and procure to be forged and fabricated, a note or writing in the following or similar terms:—

'Les amis de feu M. Ph. Mallet liront sans doute avec un grand 'interêt cette lettre d'un petit fils du Comte de Sterling. M. Cholet de 'Lyon partant aujourd'hui 16. Octobre 1707 pour sen retourner chez 'lui aura l' honneur de la remettre a M. Brossette, de la part de Madame 'de Lambert.

'Pour l'authentiquer j'ai ecrit et signé cette apostille.'

and you did, then and there, wickedly and feloniously forge and adhibit, or cause and procure to be forged and adhibited to the said note or writing the words 'Fr. Ar. Duc. de Cambray,' meaning the same to pass for, and be received as, the genuine subscription of François Fenelon, sometime Archbishop of Cambray, or of some person to the Prosecutor unknown; which note or writing, to which the said subscription was so adhibited, being translated into English, is of the following or similar tenor, import, and effect:—

'The friends of the late Mr Ph. Mallet will doubtless read with great 'interest this letter of a grandson of the Earl of Stirling's: M. Cholet 'of Lyons, setting out to-day, 16. October 1707 on his way home, will 'have the honour of delivering it to Mr Brossette, on the part of 'Madame de Lambert. To authenticate it, I have written and signed 'this marginal note :'

And you did, for the better success and concealment of your said forgery and fabrication, paste or cause to be pasted, on the back of the said map of Canada, the said letter, bearing to be subscribed 'John Alexander,' with the said marginal note thereon, and also an impression of a seal in wax which you fabricated or simulated, or caused to be fabricated and simulated, meaning the same to pass for, and be received as, a genuine contemporary impression of the seal of the alleged writer of the said letter bearing to be subscribed 'John Alexander :' AND,

Time and place last above libelled,

you, the said Alexander Humphreys or Alexander, did wickedly and feloniously forge, fabricate, and simulate, or cause and procure to be forged, fabricated, and simulated, upon a paper, which you pasted, or caused to be pasted, to the said map, an inscription or writing in the following or similar terms :—

'Here lieth the Body of
'IOHN ALEXANDER ESQUIRE,
'LATE of Antrim,
'The only Son of the Honourable Iohn Alexander,
'Who was the fourth Son of that most Illustrious
'And famous Statesman,
'William Earl of Sterline
'Principal Secretary for Scotland :
'Who had the singular merit of planting at his
'Sole expence, the first Colonie in
'NOVA SCOTIA.

'He marryd Mary, Eldest Daughter of the
'Rev. Mr Hamilton of Bangor,
'By whom he had issue one son Iohn, who
'At this present time is the Presbyterian Minister
'At Stratford-on-Avon in England
'And two Daughters,
'Mary, who survives, and Elizabeth, Wife of
'Iohn M. Skinner Esquire, who died 7th Jan. $17\frac{10}{11}$
'Leaving three Children.

'He was a Man of such endowments as added
'Lustre to his noble descent, and was universally
'Respected for his Piety and Benevolence
'He was the best of Husbands :
'As a Father most Indulgent : As a Friend
'Warm, Sincere and Faithfull.
'He departed this Life
'At Templepatrick, in the County of Antrim
'On the 19th day of April 1712.'

And you did, then and there, wickedly and feloniously forge and fabricate, or cause and procure to be forged and fabricated, upon the margin of the paper, containing the said fabricated and simulate inscription or writing, a note or writing in the following or similar terms :—

'This is a faithfull copy of the Inscription to the memory
'of John Alexander, Esquire, upon the tablet over his
'tomb at Newtown-Ardes, Co. of Down, Ireland.

'STRATFORD UPON AVON,
'*Oct.* 6. 1723.'

and you did, then and there, wickedly and feloniously forge and adhibit, or cause and procure to be forged and adhibited to the said note or writing the words "W. C. Gordon, junr." meaning the same to pass for, and be received as, the genuine subscription of some person to the Prosecutor unknown, or of a fictitious person : AND,

Time and place last above libelled,

you, the said Alexander Humphreys or Alexander, did wickedly and feloniously forge, fabricate, and simulate, or cause and procure to be forged, fabricated, and simulated, upon the back of the said map, and near to that part of it on which the said copy of an inscription is pasted, a note or writing in the following or similar terms :—

"Note.

"Cette Inscription a esté communiquée par Mad^e de Lambert. Depuis la mort de Monsieur Alexander en 1712 cette dame n'a pas cessé de donner des marques de sa bienueillance et de son amitié au fils de cet homme distingué. Ce fils est connu avantageusement en Angleterre comme ministre du culte Protestant et comme sçavant philologue. Dans la connoissance des langues de l'Orient il est presque sans compétiteurs. Il est à la teste du College pour l'education des ieunes ministres établi à Stratfort dans le comté de Varuick,"

meaning the same to pass for, and be received as, a genuine ancient note or writing of some person to the Prosecutor unknown, or of a fictitious person ; which note or writing, being translated into English, is of the following or similar tenor, import, and effect :—

'NOTE.

'This inscription has been communicated by Madame de Lambert. 'Since the death of Mr Alexander in 1712, this lady has not ceased to 'bestow on the son of this distinguished man marks of her good will 'and friendship. This son is favourably known in England as a Pro-'testant Clergyman and a learned Philologist. In the knowledge of 'Oriental Languages he is almost without a rival. He is at the head of 'a college for the education of young clergymen, established at Stratford, 'in the county of Warwick :' AND,

Time and place last above libelled,

you, the said Alexander Humphreys or Alexander, did wickedly and feloniously forge, fabricate, and simulate, or cause and procure to be forged, fabricated, and simulated, upon the back of the said map of

Canada, and near to the said writing, bearing to be subscribed 'Ph. Mallet,' a note or writing, in the following or similar terms :—

'Cette note est digne
'de quelque attention dans
'les cérconstances presentes mais
'qu' on m' envoie la copie de la charte origènale.'

meaning the same to pass for, and be received as, a genuine note or writing of Lewis XV. King of France, or some person to the Prosecutor unknown; which note or writing, being translated into English, is of the following or similar tenor, import, and effect :—

'This Note is worthy
'of some attention under
'present circumstances: but
'let the copy of the original charter be sent to me.'

FURTHER, in the Court-room of the Second Division of the Court of Session at Edinburgh, or within the Parliament House, or the Register House of Edinburgh, on the

25th day of November, 1837,

or on one or other of the days of that month, or of October immediately preceding, or of December immediately following, you, the said Alexander Humphreys or Alexander, did wickedly and feloniously use and utter as genuine all and each, or one or more of the forged, fabricated, and simulate writings last above libelled, that is to say, the writings, letter, inscription, and notes, with the forged and fabricated subscriptions thereto, as above libelled, all written or pasted on the back of the said map of Canada, you well knowing the same, all and each, or one or more of them, to be forged, fabricated, and simulate, as said is, by then and there delivering, or causing or procuring the same to be delivered by the hands of Charles Alexander, your son, now or lately residing in Carlton Place, Edinburgh, or of the said Ephraim Lockhart, or by the hands of some other person to the Prosecutor unknown, to James Ferguson, Esquire, Principal Clerk of Session, for the purpose of being lodged in process as evidence in your behalf in the said last mentioned action of reduction-improbation; and they were so lodged accordingly: OR OTHERWISE, all and each, or one or more of the writings last above libelled, that is to say, the writings, letter, inscription, and notes, with the forged and fabricated subscriptions thereto, as above libelled, all written or pasted on the back of the said map of Canada, having been at some time and place, and by some persons or person, to the Prosecutor unknown, forged, fabricated, and simulated, you, the said Alexander Humphreys or Alexander, in the Court-room of the Second Division of the Court of Session, or within the Parliament House, or the Register House of Edinburgh, on the

25th day of November, 1837,

or on one or other of the days of that month, or of October immediately preceding, or of December immediately following, did wickedly and feloniously use and utter, as genuine, all and each, or one or more of them, you well knowing the same, all and each, or one or more of them,

to be forged, fabricated, and simulate, as said is, by then and there delivering the same, or causing, or procuring the same to be delivered by the hands of the said Charles Alexander, or of the said Ephraim Lockhart, or some other person to the Prosecutor unknown, to James Ferguson, Esquire, Principal Clerk of Session, for the purpose of being lodged in process, as evidence in your behalf, in the said last mentioned action of reduction-improbation; and they were so lodged accordingly: LIKEAS, (4.) within the house of Marie Anne Le Normand, at Paris, above libelled, between the

21st day of December, 1836, and the
21st day of April, 1837,

the particular day being to the Prosecutor unknown, or at some other time and place to the Prosecutor unknown, you, the said Alexander Humphreys or Alexander, did wickedly and feloniously forge, fabricate, and simulate, or cause and procure to be forged, fabricated, and simulated, a letter or writing, in the following or similar terms:—

'Mrs Innes Smyth's compliments to Messrs De Porquet and Co. 'She had fully intended calling in Tavistock Street when she arrived 'in town yesterday from Staffordshire; but another commission she 'had to execute having prevented her, she is induced to send the enclosed 'packet to them by the twopenny post, with her particular request that 'they will forward it *instantly* to the Earl of Stirling, or any member 'of his Lordship's family whose residence may be known to them.

'HACKNEY, *April 19th.*'

meaning the same to pass for, and be received as, a genuine letter or writing of some person to the Prosecutor unknown, or of a fictitious person: AND,

Time and place last above libelled,

you the said Alexander Humphreys or Alexander did wickedly and feloniously forge, fabricate, and simulate, or cause and procure to be forged, fabricated, and simulated, a letter in the following or similar terms:—

'The inclosed was in a small cash-box, which was stolen from the 'late William Humphreys, Esq. at the time of his removal from Digbeth-'house, Birmingham, to Fair Hill. The person who committed the theft 'was a young man in a situation in trade which placed him above suspicion. 'Fear of detection, and other circumstances, caused the box to be carefully 'put away, and it was forgot that the packet of papers was left in it. 'This discovery has been made since the death of the person alluded to, 'which took place last month. His family being now certain that the 'son of Mr Humphreys is the Lord Stirling who has lately published a 'narrative of his case, they have requested a lady, going to London, to 'leave the packet at his Lordship's publishers, a channel for its convey-'ance pointed out by the book itself, and which they hope is quite safe. 'His Lordship will perceive that the seals have never been broken. 'The family of the deceased, for obvious reasons, must remain unknown, 'They make *this* reparation, but cannot be expected to court disgrace 'and infamy.

'*April 17th* 1837.'

meaning the same to pass for, and be received as, a genuine letter or writing of some person to the Prosecutor unknown, or of a fictitious person: AND,

Time and place last above libelled,

upon a parchment case or cover, you, the said Alexander Humphreys or Alexander, did wickedly and feloniously forge, fabricate, and simulate, or cause and procure to be forged, fabricated, and simulated, a note or writing in the following or similar terms:

'Some of my wife's family papers,'

meaning the same to pass for, and be received as, a genuine note or writing of the deceased William Humphreys, your father, or of some other person to the Prosecutor unknown; and you did, then and there, fabricate and simulate, or cause to be fabricated and simulated, on the said parchment case or cover, three impressions in wax of a seal, meaning the same to pass for three genuine and contemporary impressions of a seal of the said William Humphreys, or of some person to the Prosecutor unknown, the alleged writer of the said note or writing: AND,

Time and place last above libelled,

you, the said Alexander Humphreys or Alexander, did wickedly and feloniously forge, fabricate, and simulate, or cause and procure to be forged, fabricated, and simulated, a writing or table, bearing to be Part of the Genealogical Tree of the Alexanders of Menstry, Earls of Stirling in Scotland, and to be dated April 15, 1759, in the terms set forth in the Appendix No. III. hereunto annexed, or in similar terms; and you did, then and there, wickedly and feloniously forge and adhibit, or cause and procure to be forged and adhibited, to the said writing or table, the words 'Thos. Campbell,' meaning the same to pass for, and be received as, the genuine subscription of some person to the Prosecutor unknown, or of a fictitious person: AND,

Time and place last above libelled,

you, the said Alexander Humphreys or Alexander, did wickedly and feloniously forge and fabricate, or cause or procure to be forged and fabricated, a letter in the following or similar terms:—

'Rev^d Mr Alexander,
'Birmingham,

'Dear Bro^r,

'Mr Palmer is not at home; but I will take care of 'the letter. I have but little time to write at present; yet, as Mr Solly 'is going to-night, and offers to take this, I must tell you, Campbell has 'written to me. The report we heard last year about the agents of 'W. A. is too true. No other copy of the inscription can be had at 'Newtown. The country people say, they managed one night to get 'the slab down, and 'tis thought they bury'd it. However, C. does not 'think you need mind this loss, as Mr Lyttleton's copy can be proved. 'Mr Denison tells Campbell, his copy of grandfather A.'s portrait will 'be very like when finished. At the back of the original, old Mr Denison 'pasted a curious mem., from which it appears, that our grandfather 'rec^d his early education at Londonderry, under 'the watchfull eye of '' Mr Maxwell, his maternal grandsire.' At the age of sixteen, the

'Dowager-Countess wished him to be sent to Glasgow College; but at 'last it was thought better for him to go to a German university. He 'attained high distinction as a scholar, remained many years abroad, and 'visited foreign courts. Please to give duty and love to Mamma, love to 'sisters, and be yourself healthy and content.

'Yr affectionate Bror.

'Lond. *Augt* 20. 1765.'

And you did, then and there, wickedly and feloniously forge and adhibit, or cause and procure to be forged and adhibited thereto, the words 'B. Alexander,' meaning the same to pass for, and be received as, the genuine subscription of the deceased Benjamin Alexander, said to be your uncle, or of some person to the Prosecutor unknown, or of a fictitious person: AND,

Time and place last above libelled,

you, the said Alexander Humphreys or Alexander, did wickedly and feloniously forge and fabricate, or cause and procure to be forged and fabricated, a letter in the following or similar terms:

'For

'Rev. Mr Jno Alexander.

'*Dublin, Sept.* 16. 1765.

'Revd Sir,

'I was sorry to hear of ye lawless act at Newton, but as 'I tell Mr Denison, I shall be ready to come forward if you want me. I 'was about twenty-one when I attended yr grandfather's funerall. He 'was taken ill when visitting a friend at Templepatrick, and dyed yer, 'for he cou'd not be removed, Mr Livingstone, a verry old friend of yr 'family, wrote ye inscription, wh ye claimant from America got destroyed. 'I always heard yt yr great gr.father, ye Honoble Mr Alexander, (who was 'known in the country as Mr Alexander of Gartmoir,) dyed at Derry: 'but for ye destruction of ye parish registers in the north by ye Papists, 'during ye civil war from 1689 to 1692, you mit have got ye certificates 'you want.

'I am wth Friend Denison till October; so if you have more questions 'to put to me, please to direct to his care. Till then,

'I remain, Revd Sir,

'Yrs respectfully.'

And you, the said Alexander Humphreys or Alexander, did, then and there, wickedly and feloniously forge and adhibit, or cause or procure to be forged and adhibited thereto, the words 'A. E. Baillie,' meaning the same to pass for, and be received as, the genuine subscription of some person to the Prosecutor unknown, or of a fictitious person: FURTHER, within the said Register House, or the said Parliament House of Edinburgh, on the

27th day of November 1837,

or on one or other of the days of that month, or of October immediately preceding, or of December immediately following, you, the said Alexander Humphreys or Alexander, did wickedly and feloniously use and utter as genuine, all and each, or one or more of the six forged, fabricated, and simulate writings last above libelled, having thereon the forged and fabri-

cated subscriptions respectively, as above libelled, that is to say, — the letter bearing to be written by Mrs Innes Smyth, — the letter commencing 'the enclosed was in a small Cash Box,' and bearing to be dated 'April 17, 1837,' — the note on the parchment case or cover, with the three fabricated impressions of a seal thereon, — the writing or table, — the letter bearing to be signed 'B. Alexander,' — and the letter bearing to be signed 'A. E. Baillie,' you well knowing the same, with the subscriptions thereto, as above libelled, all and each, or one or more of them, to be forged, fabricated, and simulate, as said is, by then and there delivering them, or causing or procuring them to be delivered, by the hands of the said Ephraim Lockhart, your agent, or some other person to the Prosecutor unknown, to William Sheill, then and now or lately Assistant Clerk of Session, Edinburgh, or to some other person in the offices of the Clerks of Session to the Prosecutor unknown, for the purpose of being lodged in process as evidence in your behalf in the said last mentioned action of reduction-improbation; and they were so lodged accordingly: OR OTHERWISE, the six writings last above libelled, that is to say, —the letter bearing to be written by Mrs Innes Smyth,—the letter commencing 'the enclosed was in a small Cash Box,' and bearing to be dated 'April 17, 1837,'—the note on the parchment case or cover, with the three fabricated impressions of a seal thereon,—the writing or table,—the letter bearing to be signed 'B. Alexander,'—and the letter bearing to be signed 'A. E. Baillie,' with the subscriptions thereto as above libelled, having been, all and each, or one or more of them, at some time and place, and by some person or persons to the Prosecutor unknown, forged, fabricated, and simulated, you the said Alexander Humphreys or Alexander, within the said Register House, or the said Parliament House of Edinburgh, on the

27th day of November 1837,

or on one or other of the days of that month, or of October immediately preceding, or of December immediately following, did wickedly and feloniously use and utter as genuine the said writings, with the subscriptions thereto, as above libelled, you well knowing the same, all and each, or one or more of them, to be forged, fabricated, and simulate, as said is, by then and there delivering them, or causing or procuring them to be delivered, by the hands of the said Ephraim Lockhart, your agent, or some other person to the Prosecutor unknown, to William Sheill, then and now or lately Assistant Clerk of Session, Edinburgh, or to some other person in the offices of the Clerks of Session, Edinburgh, or to some other person in the offices of the Clerks of Session to the Prosecutor unknown, for the purpose of being lodged in process as evidence in your behalf in the said last mentioned action of reduction-improbation; and they were so lodged accordingly: LIKEAS, (5.) the Second Division of the Court of Session having appointed you to appear at the Bar to be judicially examined as to how certain of the documents above libelled, tendered in the said last mentioned process of reduction-improbation came into your possession or to your knowledge; and you, in the course of that examination, on or about the 18th day of December 1838, having stated that you had received the said map of Canada, with the documents above libelled, written or pasted thereon, from the said Marie Anne Le Normand; and that she had represented to you that the same had been conveyed to her by some person unknown; and that she received a letter along with the document; and that she retained the said letter,

but that a copy thereof was taken, which was then in the hands of your agent; and you having undertaken to produce the same, you, the said Alexander Humphreys or Alexander, did,

At some time and place to the Prosecutor unknown,

wickedly and feloniously forge, fabricate, and simulate, or cause and procure to be forged, fabricated, and simulated, a writing in the following or similar terms :—

'Copy letter found by Mademoiselle Le Normand, enclosed in the 'same packet which contained the Map of Canada, and was left at her 'Cabinet on July 11, 1837.'

'Je viens d'apprendre Mademoiselle que vous vous interessez vive-'ment au succes d'un Anglais qui réclame comme descendant du Comte 'de Stirling l'héritage de son ancêtre en Amérique. Si les autographes 'que j'ai l'honneur de vous envoyer peuvent le faire réuissir je serai en-'chanté d'avoir pu trouver une occasion de vous faire plaisir en lui ren-'dant service et de m'acquitter en même temps un peu des obligations 'que je vous ai. Je suis faché cependant que les devoirs d'une place que 'j'occupe audjourd'hui ne me permettent pas de me faire connaître dans 'cette affaire du Lord de Stirling. Vous qui en savez beaucoup ne serez 'point surprise qu'un homme en place n'ose pas y intervenir *ouvertement.*

'J'ai déjà dit que je vous ai des obligations. Oui Mademoiselle j'en 'ai et j'ai eu l'avantage plus d'une fois de vous consulter; même à une 'epoque lorsque j'êtais menacé d'une grande disgrace ce fut vous qui me 'sauvâtes par un èclaircissement utile donné à propos. Vous n'avez pas 'obligé un ingrat. Je rends en toute occasion justice à vos talens et je 'vous serai toute ma vie devoué et reconnaissant.

'Vous pensez bien que je n'ai acheté cette vieille carte du Canada que 'pour les autographes qui sont fort curieux. L'apostille en marge de la 'Note de Mallet (dans le coin à droit) est dit-on de Louis XV. Les 'autographes de Fenelon et de Flechier ne sont pas moins précieux et le 'marchand qui me vendit la carte en 1819 m'assura qu'elle avait appar-'tenue à Louis XVI. ce que paraît assez probable d'après ce que je viens 'de dire de l'apostille de son aÿeul. Le marchand démeurait en 1819 sur 'le quai Voltaire mais depuis tant d'années il s'est fait bien des change-'mens et son nom m'a èchappé.

'Agreez Mademoiselle l'hommage des sentimens distingués que je vous ai voués et que vous méritez si bien.

'M.'

'*Versailles, le* 10 *Juillet* 1837.

'Je charge des personnes de confiance de ce paquet. Elles iront vous 'consulter: Ne soyez donc pas ètonnée de le trouver sur quelque table 'ou chaise dans votre cabinet.'

meaning the same to pass for, and be received as, a genuine true copy, or the true tenor of an actual genuine letter, written by some person to the Prosecutor unknown, or by a fictitious person; and which writing, being translated into English, is of the following or similar tenor, import, and effect:—

'I have just learned, Mademoiselle, that you take a lively interest in 'the success of an Englishman who claims as a descendant of the Earl of

'Stirling the inheritance of his ancestor in America. If the autographs 'which I have the honour of sending to you, can insure his success, I 'shall be delighted to have found an opportunity, by rendering him a 'service, of gratifying you, and, at the same time, discharging a small por- 'tion of the obligations which I owe to you. I regret, however, that 'the duties of an office which I at present hold do not permit me to make 'myself known in this affair of Lord Stirling's. You who know a great 'deal about it will feel no surprise that a man in office should not dare 'to interfere in it *openly*.

'I have already stated that I am under obligations to you—yes, Made- 'moiselle, I am, and more than once have I had the advantage of con- 'sulting you; even at a time when I was menaced with a signal disgrace, 'it was you who saved me by a salutary eclaircissement seasonably given. 'You have not obliged an ungrateful man. On all occasions I do justice 'to your talents, and to you while I live I shall be devoted and grateful.

'You may well imagine that I purchased this old map of Canada solely 'on account of the autographs, which are very curious. The note on the 'margin of Mallet's note (in the right corner) is said to be Louis the 'Fifteenth's. The autographs of Fenelon and Flechier are no less pre- 'cious, and the dealer who sold me the map in 1819, assured me that it 'had belonged to Louis XVI. which is probable enough from what I 'have just said of his grandfather's marginal note. The dealer lived in '1819 on the Quai Voltaire; but since that time many changes have 'taken place, and his name has escaped me.

'Receive, Mademoiselle, the homage of the distinguished sentiments 'which I have vowed to you, and which you so well deserve.

'M.'

'*Versailles*, 10*th July* 1837.

'I confide this packet to trust-worthy persons. They will go to con- 'sult you; do not be surprised to find it on some table or chair in your 'study.'

FURTHER, within the Parliament House, or within the Register House, Edinburgh, on the

20th day of December, 1838,

or on one or other of the days of that month, or of November immediately preceding, or of January immediately following, you, the said Alexander Humphreys or Alexander, did wickedly and feloniously use and utter as genuine, the said forged, fabricated, and simulate writing, you well knowing the same to be forged, fabricated, and simulate, as said is, by then and there delivering the same, or causing the same to be delivered, by the hands of the said Ephraim Lockhart, or some other person to the Prosecutor unknown, to the said William Sheill, or to some other person in the offices of the Clerks of Session to the Prosecutor unknown, for the purpose of its being lodged in process as evidence in your behalf, in the said last mentioned action of reduction improbation; and it was so lodged accordingly: And you, the said Alexander Humphreys or Alexander, having been apprehended and taken before George Tait, Esquire, Sheriff-Substitute of the County of Edinburgh, you did, in his presence at Edinburgh, emit three several declarations, and subscribe them respectively with the word 'Stirling,'

as the proper subscription of your said pretended title of Earl of Stirling: Which declarations, dated respectively

The 14th and 18th days of February, and the 6th day of March, 1839;

as also the various articles referred to in the said declarations; as also the forged and fabricated writings above libelled, with the map upon which certain of the same are written or pasted; as also the several articles enumerated in an Inventory hereto annexed, or part thereof, being to be used in evidence against you, the said Alexander Humphreys or Alexander, at your trial, will, for that purpose, be in due time lodged in the hands of theClerk of the High Court of Justiciary, before which you are to be tried, that you may have an opportunity of seeing the same: ALL WHICH, or part thereof, being found proven by the verdict of an Assize, or admitted by the judicial confession of you, the said Alexander Humphreys or Alexander, before the Lord Justice-General, Lord Justice-Clerk, and Lords Commissioners of Justiciary, you, the said Alexander Humphreys or Alexander, OUGHT to be punished with the pains of law, to deter others from committing the like crimes in all time coming.

C. INNES, *A. D.*

APPENDIX, No. I.

REFERRED TO IN THE FOREGOING INDICTMENT.

Excerpt.

Reg. Mag. Sig. Lib. LVII. *Carta de Novodamus Willielmi Comitis de Stirling Comitatus de Stirling, &c.*

Carolus Dei gratia Magnæ Britan: &c. Sciatis quia nos per diploma nostrum de data quarto die mensis Septembris anno Domini millesimo sexcentesimo trigesimo fecimus creavimus et constituimus per confisum et dilectum nostrum Dominum Willielmum Alexander de Menstrie militem utriusque regni nostri Consiliarium regni nostri Scotiæ principalem Secretarium Vicecomitem de Stirling Dominum Alexander de Tulliebodie dando et concedendo sibi et hæredibus suis masculis cognomen et arma de Alexander gerentibus titulum honorem gradum et dignitatem Vicecomitis dicti regni nostri Scotiæ nec non investivimus præfatum Dominum Willielmum Alexander hæredesque suos masculos antedictos in dicto titulo et dignitate Vicecomitis de Stirling Domini Alexander de Tulliebodie omni tempore affuturo nuncupandos et indigitandos fore: Et per alterum diploma nostrum de data decimo quarto die mensis Junii anno Domini millesimo sexcentesimo trigesimo tertio nos fecimus &c. præfatum Willielmum Vicecomitem de Stirling Comitem de Stirling Vicecomitem de Canada Dominum Alexander de Tulliebodie dan. et conceden. sibi suisque hæredibus masculis in perpetuum cognomen et arma de Alexander gerentibus titulum honorem ordinem et gradum dignitatis Comitis cum omnibus et

singulis prærogativis præeminentiis privilegiis libertatibus et immunitatibus ad eundem pertinen. quoquidem titulo honore et gradu dignitatis nos investivimus et nobilitavimus præfatum Willielmum Vicecomitem de Stirling hæredesque suos masculos omni tempore futuro nuncupand. Comites de Stirling, Vicecomites de Canada, Dominus Alexander de Tullibodie, &c. modo latius in dictis diplomatibus respective content. Et quia nos per Cartam nostram sub nostro Magno Sigillo dict. regni nostri Scotiæ de data duodecimo die mensis Julii anno Domini millesimo sexcentesimo vigesimo quinto pro rationibus inibi mentionatis dedimus, &c. præfato Domino Willielmo Alexander hæredibus suis vel assignatis quibuscunque hæreditarie omnes et singulas terras Continentas ac Insulas situatas et jacen. in America intra caput seu promontorium comuniter Cap de Sable appellat. jacen. prope latitudinem quadraginta trium graduum aut eo circa ab equinoctiali linea versus septentrionem, &c. includen. et comprehenden. intra dictas maris oras littorales ac earum circumferentias a mari ad mare omnes terras continentes cum fluminibus &c. jacen. prope aut intra sex leucas ad aliquam earundem partem ex Occidentali Boreali vel Orientali partibus orarum &c. et ab euronoto (ubi jacet Cap Britton) et ex Australi parte ejusdem (ubi est Cap de Sable) omnia maria ac insulas versus meridiem intra quadraginta leucas dictarum orarum littoralium earundem magnam insulam vulgariter appellat Yle de Sable vel Sablon includen. jacen. versus carban vulgo south southeist circa triginta leucas a dicto Cap Britton in mari et existen. in latitudine quadraginta quatuor graduum aut eo circa: Quæquidem terræ prædict. omni tempore affuturo nomine Novæ Scotiæ in America gaudebunt &c. Preterea nos fecimus univimus annexavimus ereximus creavimus et incorporavimus totam et integram prædictam provinciam et terras Novæ Scotiæ cum omnibus earundem limitibus et maribus &c. in unum integrum et liberum dominium et Baroniam per prædict. nomen Novæ Scotiæ omni tempore futuro appelland. &c. ut dicta carta in sese latius proportat. Et quia nos per alteram cartam nostram sub sigillo prædict. de data secundo die mensis Februarii anno Domini millesimo sexcentesimo vigesimo octavo pro causis inibi specificatis dedimus &c. præfato Domino Willielmo Alexander heredibus suis et assignatis hæreditarie in perpetuum omnes et singulas insulas infra sinum Canadæ jacentes inter Novam Scotiam et Terram Novam ad ostium et introitum magni fluminis Canadæ, ubi decidit et intrat in dictum Sinum (includendo inibi magnam insulam Anticosti) &c. quasquidem totas et integras prænominatas terras spatia seu bondas insulas aliaque generalit. et particularit. in dicta carta nostra supra expressa nos pro nobis et successoribus nostris ereximus et univimus in unum integrum et liberum dominium Dominium de Canada nuncupandum ad memoratum Dominum Willielmum Alexander suosque prædict. hereditarie spectan. et pertinen. in perpetuum &c. Et quia nos per alteram cartam nostram sub Sigillo prædict. de data penultimo die mensis Julii anno Domini millesimo sexcentesimo vigesimo nono dedimus &c. prefato Domino Willielmo Alexander heredibus suis masculis et assignatis quibuscunque hereditarie et irredimabiliter totas et integras terras et baroniam de Tulliebodie cum tenentibus tenandriis libere tenentium servitiis &c. Et quia nos per alteram cartam nostram sub sigillo prædict. de data duodecimo die mensis Julii anno Domini millesimo sexcentesimo trigesimo quarto dedimus &c. prefato Willielmo nunc Comiti de Stirling in vitali reditu pro omnibus suæ vitæ diebus ac prædilecto nostro consanguineo Willielmo Domino Alexander filio dicti Comitis nuper demortuo in feodo ac heredibus masculis de corpore suo legitime procreatis seu procreandis quibus

deficientibus dicto Willielmo Comiti de Stirling hæredibus suis masculis et assignatis quibuscunque hæreditarie et irredimabiliter totas et integras terras et baroniam de Tullicultrie &c. ut dicta carta in sese amplius fert. Et quia nos per alteram cartam nostram sub sigillo predict. de data vigesimo tertio die mensis Januarii anno Domino millesimo sexcentesimo trigesimo sexto dedimus &c. præfato Willielmo Comiti de Stirling hæredibus suis et assignatis quibuscunque hæreditarie omnes et singulas duodecim mercatas terrarum antiqui extentus de Gartmore &c. ut dicta carta in sese amplius proportat. QUÆQUIDEM dignitates cum præfatis titulis et honoribus per antedict. diplomata nostra collat. ac cum omnibus et singulis prærogativis præeminentiis privilegiis libertatibus et immunitatibus dictis titulis et honoribus incuben. perprius prenominato Willielmo Comiti de Stirling suisque hæredibus masculis cognomen et arma de Alexander gerentibus dat. fuerunt et concess. et per ipsum et suos procuratores suo nomine in manibus nostris debite et legitime resignat. pro nova concessione eorundem titulorum honorum et dignitatum in favorem dicti Willielmi Comitis de Stirling suorumque heredum infra script. ET QUÆQUIDEM dominia et baroniæ Novæ Scotiæ et de Canada et baroniæ de Tullibodie et Gartmore intus respective comprehenden. terras insulas molendina piscationes decimas aliaque supra script. intra prædictas bondas respective cum omnibus suis pertinentiis jacen. ut prædicitur ac cum omnibus et singulis partibus pendiculis privilegiis libertatibus immunitatibus prærogativis officiis et jnrisdictionibus quibuscunque specialiter et generaliter in antedictis cartis nostris recitat. perprius ad dictum Willielmum Comitem de Stirling pertinuerunt et per ipsum suosque procuratores prædictos suo nomine in manibus nostris debite et legitime resignat. fuerunt: AC QUÆQUIDEM baronia de Tullicultrie intus comprehenden. terras molendina decimas aliaque supra script. jacen. ut dictum est cum omnibus et singulis partibus et pendiculis predict. terrarum aliorumque cum pertinentiis specialiter in antedicta carta nostra recitat. perprius ad dictum Willielmum Comitem de Stirling in vitali reditu et ad dictum Willielmum Dominum Alexander ejus filium nunc demortuum in feodo pertinuerunt et per dictum Willielmum Comitem de Stirling et dilectum nostrum consanguineum Willielmum nunc Dominum Alexander filium ac heredem masculum de corpore dicti demortui Willielmi Domini Alexander suosque procuratores suo nomine quoque in manibus nostris debite et legitime resignat. fuerunt et hæc pro nostro hæreditario infeofamento eorundem in favorem ejusdem Willielmi Comitis de Stirling, suorumque heredum infra script. in legali et competenti forma uti congruit. Insuper nos cum expressis avisamento et consensu confisi nostri consanguinei et consiliarii Joannis Comitis de Traquair Domini Lintoun et Caberstoun nostri magni thesaurarii collectoris et computorum rotulatoris hujus regni nostri Scotiæ ac fidelis nostri consiliarii Domini Jacobi Carmichaell de eodem Militis Baronetti nostri deputati in dict. officiis nec non cum consensu reliquorum Dominorum nostri Scaccarii ejusdem regni nostri nostrorum commissionariorum pro bono fideli et gratuito servitio per dict. Willielmum Comitem de Stirling omnibus occasionibus preteritis prestito et impenso proque certis aliis respectibus et bonis considerationibus nos moven. per has præsentes Litteras Patentes nostras de novo dedimus et concessimus ac pro nobis nostrisque successoribus DE NOVO DAMUS et CONCEDIMUS in perpetuum antedicto perconfiso et predilecto nostro consanguineo et consiliario Willielmo Comiti de Stirling et hæredibus masculis de corpore suo quibus deficientibus hæredibus femellis natu maximis sine divisione ultimi talium hæredum masculorum et hæredibus masculis de corporibus dict.

heredum femellarum respective procreandis cognomen et arma de Alexander gerentibus quibus omnibus deficientibus propinquioribus legitimis hæredibus quibuscunque dicti Willielmi Comitis de Stirling cum præcedentia a decimo quarto die mensis Junii anno Domino millesimo sexcentesimo trigesimo tertio titulos honores et dignitates Comitis de Stirling Vicecomitis de Stirling et de Canada Domini Alexander de Tullibodie cum omnibus et singulis privilegiis præeminentiis prærogativis libertatibus et immunitatibus quibuscunque ad eosdem pertinen. et spectan. Et similiter nos cum avisamento et consensu prædict. de novo dedimus concessimus disposuimus et hac præsenti carta nostra confirmavimus tenoreque ejusdem DE NOVO DAMUS CONCEDIMUS DISPONIMUS proque nobis et sucessoribus nostris pro perpetuo CONFIRMAMUS antedicto Willielmo Comiti de Stirling et hæredibus masculis de corpore suo quibus deficientibus hæredibus femellis natu maximis sine divisione ultimi talium hæredum masculorum titulis honoribus et dignitatibus prædictis posthac succedentium et hæredibus masculis de corporibus talium heredum femellarum respective procreandis cognomen et arma familie de Alexander gerentibus quæ tenebuntur et obligabuntur assumere quibus omnibus deficientibus propinquioribus legitimis hæredibus quibuscunque dicti Willielmi Comitis de Stirling cum præcedentia a decimo quarto die mensis Junii anno Domini millesimo sexcentesimo trigesimo tertio hereditarie et irredimabiliter absque ulla reversione redemptione seu regressu dominia terras et baronias aliaque supra et subtus memorat. videlicet totum et integrum dominium et baroniam de Nova Scotia in America comprehenden. &c. Et similiter totam illam partem de lie main land Novæ Angliæ incipien. a certo loco. appellato seu noto nomine Sancte Crucis lie St Croix contiguo ad Novam Scotiam predict. et inde extenden. per maris oram ad certum locum nuncupat. Petnaquine aliter Pemaquid et ita per fluvium ejusdem ad ejus scaturiginem remotissimam prout tendit versus septentrionem et extenden. abinde ad proximum ad fluvium Kenebekike aliter Kennebeck et ita tenus per cursum contractissimum qui tendit ad fluvium Canadam versus septentrionem nec non totam illam insulam seu insulas communiter nuncupat. separato nomine vel nominibus de Matowacks vel Long Island cum omnibus et quibuslibet insulis iisdem adjacen. &c. Et etiam Totum et Integrum dominium de Canada comprehenden. &c. intra dictum fluvium Canadam jacentes a dicto ostio et introitu ad caput usque primum ortum et scaturiginem ejusdem ubicunque sit &c. Et similiter totam et integram baroniam de Tullibodie comprehenden. totas et integras terras et baroniam de Tullibodie cum tenentibus tenandriis libere tenentium servitiis earundem &c. Ac etiam totam et integram baroniam de Tullicultrie comprehenden. Totas et Integras Terras et Baroniam de Tullicultrie &c. Intra bondas limites et metas respective in prioribus infeofamentis memorato Willielmo Comiti de Stirling fact. et concess. specificat. &c. Ac etiam Totam et Integram baroniam de Gartmore comprehenden. &c. Quinetiam nos ereximus creavimus univimus et incorporavimns tenoreque presentis cartæ nostræ cum avisamento et consensu prædict. ERIGIMUS CREAMUS UNIMUS et INCORPORAMUS omnia et singula præfat. Dominia Terras Baronias aliaque supra descript. omnesque partes et pertinentias dict. dominiorum et baroniarum respective una cum Mineris et Mineralibus auri argenti aliorumque mineralium prædict. cum Carbonibus et Carbonariis intra bondas predictarum terrarum baroniarum aliorumque præscript. aut intra fluvii fluxum earundem terrarum in unam integram et liberam Baroniam et Comitatum nunc et omni tempore affuturo Comitatum de Stirling appelland. cum titulo stylo et dignitate Comitis secundum datam dicti

Comitis creationis supra memorat Nec non volumus et concedimus ac pro nobis nostrisque successoribus decernimus et ordinamus quod unica sasina capienda nunc et omni tempore futuro per dictum Willielmum Comitem de Stirling suosque supra script. apud Castrum nostrum de Edinburgh aut super solo terrarum prædict. dominiorum et baroniæ de Nova Scotia et Canada respective vel cujuslibet earundem partis per terræ et lapidis deliberationem fundi predict. Castri aut terrarum respectivarum solummodo sine aliqua alia sasina est et stabit tam valida et sufficiens Sasina pro totis et integris terris aliisque prædict. dominiorum et Baroniæ respective seu pro aliqua parte earundem ac si particularis Sasina super unaquaque parte et portione dict. terrarum aliorumque respective caperetur per traditionem omnium usitatorum symbolorum non obstan. quod eadem discontigue jaceant et diversas sasinas et varia symbola requirant Et Similiter quod unica sasina capienda nunc et omni tempore futuro per dict. Willielmum Comitem de Stirling suosque supra script. super solo terrarum predict. baroniarum de Tullibodie Tullicultrie vel Gartmore vel cujuslibet earundem partis, per terre et lapidis deliberationem fundi quarumvis predict. terrarum solummodo sine aliqua alia sasina est et stabit tam valida et sufficiens sasina pro totis et integris terris aliisque prædict. baroniarum respective seu pro aliqua parte et portione dict. terrarum aliorumque ac si particularis sasina super unaquaque parte earundem respective caperetur per traditionem omnium usitatorum symbolorum non obstan. quod eadem discontigue et in diversis vicecomitatibus jaceant et diversas sasinas et varia symbola requirant penes quas sasinas omniaque quæ inde sequi poterint nos cum avisamento et consensu predict. dispensavimus tenoreque presentium pro nobis nostrisque successoribus dispensamus in perpetuum. TENENDAS et HABENDAS prefatas dignitates cum titulis et honoribus Comitis de Stirling Vicecomitis de Stirling et de Canada Domini Alexander de Tullibodie cum omnibus et singulis privilegiis pre-eminentiis prerogativis libertatibus et immunitatibus ad easdem pertinen. et spectan. prædicto Willielmo Comiti de Stirling suisque suprascript. de nobis et successoribus nostris pro perpetuo in omnibus et singulis nostris et successorum nostrorum parliamentis generalibus comitiis privatis et publicis conventibus cum jure loco et potestate suffragia inibi ferendi cum omnibus aliis prærogativis præeminentiis privilegiis libertatibus et immunitatibus pertinen. vel ad comitem intra dictum regnum quovis tempore præterito seu futuro pertinere et spectare valen. &c. IN CUJUS REI TESTIMONIUM huic præsenti cartæ nostræ magnum sigillum nostrum apponi præcepimus. Testibus reverendissimo in Christo patre et prædilecto nostro consiliario Joanne miseratione divina Sancti Andreæ Archiepiscopo primate et metropolitano regni nostri Scotie nostro cancellario prædilectis nostris consanguineis et consiliariis Jacobo Marchione de Hamiltoun Comite Arrani et Cantabrigiæ Domino Aven et Innerdaill Roberto Comite de Roxbrugh Domino Ker de Cesfuird et Cavertoun nostri Secreti Sigilli Custode dilectis nostris familiaribus consiliariis Dominis Joanne Hay de Barro nostrorum rotulatorum registri et Consilii Clerico Joanne Hamiltoun de Orbestoun nostræ justiciariæ clerico et Joanne Scot de Scottistarvett nostræ cancellariæ directore militibus. Apud aulam nostram de Quhythall septimo die mensis Decembris anno Domini millesimo sexcentesimo trigesimo nono et anno regni nostri decimo quinto.

[GRATIS.]

Per Signetum.

C. INNES, A. D.

APPENDIX, No. II.

REFERRED TO IN THE FOREGOING INDICTMENT,

(Being Translation of the Document Appendix No. 1.)

Excerpt.

Charter of Novodamus of William Earl of Stirling of the Earldom of Stirling.

Register of Great Seal, Book LVII.

CHARLES by the Grace of God of Great Britain, &c. Know ye that whereas We by our diploma of date the fourth day of September one thousand six hundred and thirty have made created and constituted our right trusty and beloved Sir William Alexander of Menstrie knight councillor of both our kingdoms principal secretary of our kingdom of Scotland Viscount of Stirling Lord Alexander of Tulliebodie giving and granting unto him and his heirs male bearing the sirname and arms of Alexander the title honour rank and dignity of Viscount of our said kingdom of Scotland as also have invested the foresaid Sir William Alexander and his heirs male aforesaid in the said title and dignity of Viscount of Stirling Lord Alexander of Tulliebodie to be called and pointed out in all time coming : And by our other diploma dated the fourteenth day of June one thousand six hundred and thirty three we have made &c. the foresaid William Viscount of Stirling Earl of Stirling Viscount of Canada Lord Alexander of Tulliebodie giving and granting unto him and his heirs male for ever bearing the sirname and arms of Alexander the title honour order and rank of dignity of Earl with all and sundry prerogatives preeminences privileges liberties and immunities belonging to the same with which title honour and rank of dignity we have invested and ennobled the foresaid William Viscount of Stirling and his heirs male to be called in all time coming Earls of Stirling Viscounts of Canada Lords Alexander of Tulliebodie &c. in manner more fully contained in the said respective diplomas : And whereas we by our charter under our great seal of our said kingdom of Scotland of date the twelfth day of July one thousand six hundred and twenty five for the reasons therein mentioned have given &c. to the foresaid Sir William Alexander his heirs and assignees whomsoever heritably. All and Sundry the lands continents and islands situate and lying in America within the Cape or promontory commonly called Cape de Sable lying near the latitude of forty three degrees or thereby from the equinoctial line northwards &c. including and comprehending within said sea coasts and their precincts from sea to sea all the main lands with rivers &c. lying near or within six leagues to any part thereof from the west north or east parts of the shores &c. and from the south east (where Cape Britain lies and from the south part thereof (where Cape Sable is) all the seas and islands towards the south within forty leagues of the said sea shores of the same including the great island, commonly called Isle of Sable or Sablon lying towards the south south-east about thirty leagues from the said Cape Britton in the sea and being in latitude forty four degrees or thereby which foresaid lands shall in all time coming have the name of Nova Scotia in America &c. Moreover we have made united annexed erected created and incorporated all and whole the foresaid province and lands of Nova Scotia with all the

boundaries and seas of the same &c. into one whole and free Lordship and Barony to be called by the foresaid name of Nova Scotia in all time coming &c. as the said charter in itself more fully proports : And whereas we by our other charter under the foresaid seal dated the second day of February one thousand six hundred and twenty eight for the causes therein specified have given &c. to the foresaid Sir William Alexander his heirs and assignees heritably for ever, all and sundry the islands lying within the Bay of Canada between Nova Scotia and the New Land at the mouth and entry of the great river of Canada where it falls and enters into the said Bay, (including therein the great island of Anticosta) &c. All and whole which forenamed lands spaces or bounds islands and others generally and particularly above expressed in our said charter, we for us and our successors have erected and united into one whole and free lordship to be called the Lordship of Canada pertaining and belonging to the said Sir William Alexander and his foresaids heritably for ever &c. : And whereas we by our other charter under the seal foresaid dated the thirtieth day of July sixteen hundred and twenty-nine have given, &c. to the foresaid Sir William Alexander his heirs-male and assignees whomsoever heritably and irredeemably all and whole the lands and barony of Tulliebodie with tenants tenendries services of free tenants &c. : And whereas we by our other charter under the seal aforesaid of date the twelfth day of July sixteen hundred and thirty-four have given &c. to the foresaid William now Earl of Stirling in liferent for all the days of his life and to our well-beloved cousin William Lord Alexander son of the said Earl now deceased in fee and to the heirs-male lawfully procreated or to be procreated of his body whom failing to the said William Earl of Stirling his heirs-male and assignees whomsoever heritably and irredeemably all and whole the lands and barony of Tillicultrie &c. as the said charter in itself more fully bears : And whereas we by our other charter under the foresaid seal dated the twenty-third day of the month of January in the year of God sixteen hundred and thirty-six have given &c. to the foresaid William Earl of Stirling his heirs and assignees whomsoever heritably all and whole the twelve merk lands of old extent of Gartmore &c. as the said charter in itself more fully proports : Which dignities with the foresaid titles and honours conferred by our foresaid diplomas and with all and sundry prerogatives preeminencies privileges liberties and immunities belonging to the said titles and honours were of before given and granted to the foresaid William Earl of Stirling, and his heirs male bearing the sirname and arms of Alexander and were by him and his procurators in his name duly and lawfully resigned in our hands for a new gift of the said titles honours and dignities in favour of the said William Earl of Stirling and his heirs within written, and which lordships and baronies of Nova Scotia and Canada and baronies of Tulliebodie and Gartmore therein respectively comprehending the lands islands mills fishings teinds and others above-written within the respective boundaries foresaid with all their pertinents lying as said is and with all and sundry parts pendicles privileges liberties immunities prerogatives offices and jurisdictions whatsoever specially and generally recited in our aforesaid charters belonged of before to the said William Earl of Stirling and were by him and his foresaid procurators in his name duly and lawfully resigned in our hands : And which barony of Tullicultrie comprehending therein the lands mills teinds and others above-written lying as said is with all and sundry parts and pendicles of the foresaid lands and others with the pertinents specially in our foresaid charter recited pertained of before to the said William Earl of Stirling in liferent and to the said William

Lord Alexander his son now deceased in fee and were by the said William Earl of Stirling and by our beloved cousin William now Lord Alexander son and heir-male of the body of the said deceased William Lord Alexander and their procurators in their names also duly and lawfully resigned in our hands and these for our new heritable infeftment thereof in favour of the said William Earl of Stirling and his heirs within-written in legal and competent form as accords. Moreover we with the express advice and consent of our trusty cousin and councillor John Earl of Traquair Lord Lintoun and Caberstoun our great treasurer collector and comptroller of this our kingdom of Scotland and of our faithful councillor Sir James Carmichaell of that Ilk knight baronet our deputy in the said offices and also with consent of the rest of the Lords of our Exchequer of our said kingdom our commissioners for the good faithful and gratuitous service done and performed by the said William Earl of Stirling on all occasions bypast and for certain other respects and good considerations us moving have by these our present letters patent *de novo* given and granted and for us and our successors *de novo* give and grant for ever to our foresaid right trusty and well-beloved cousin and councillor William Earl of Stirling and the heirs-male of his body whom failing to the eldest heirs-female without division of the last of such heirs-male and the heirs male respectively to be procreated of the bodies of the said heirs-female bearing the sirname and arms of Alexander whom all failing to the nearest lawful heirs whomsoever of the said William Earl of Stirling with precedence from the fourteenth day of the month of June in the year of God sixteen hundred and thirty-three the titles honours and dignities of Earl of Stirling Viscount of Stirling and of Canada Lord Alexander of Tullibodie with all and sundry privileges pre-eminencies prerogatives liberties and immunities whatsoever thereto pertaining and belonging; And in like manner we with advice and consent foresaid have *de novo* given and granted disponed and by this our present charter confirmed and by the tenor of the same *de novo* give grant dispone and for us and our successors for ever confirm, to the foresaid William Earl of Stirling and the heirs-male of his body whom failing to the eldest heirs-female without division of the last of such heirs-male hereafter succeeding to the foresaid titles honours and dignities and the heirs-male respectively to be procreated of the bodies of such heirs-female bearing the sirname and arms of the family of Alexander which they shall be bound and obliged to assume whom all failing to the nearest lawful heirs whomsoever of the said William Earl of Stirling with precedence from the fourteenth day of the month of June in the year of God sixteen hundred and thirty-three heritably and irredeemably without any reversion redemption or regress the lordships lands and baronies and others above and undermentioned viz. all and whole the lordship and barony of Nova Scotia in America comprehending &c. And in like manner that whole part of the main land of New England beginning from a certain place called or known by the name of St Croix near to Nova Scotia aforesaid and thence extending along the sea-shore to a certain place called Petnaquine otherwise Pemaquid and so along the river thereof to its most remote source as it tends northward and extending from thence next to the river Kenebekike otherwise Kennebeck and thus so far by the shortest course which leads to the river Canada towards the north as also that whole island or islands commonly called by the separate name or names of Matowacks or Long Island with all and whatsoever islands adjacent thereto &c.: And also all and whole the lordship of Canada comprehending &c. lying between the said river of Canada from the said mouth and entrance all along to the head first rise and source thereof wherever it is &c.: And in like manner all and whole the barony of Tullibodie

comprehending all and whole the lands and barony of Tullibodie with tenants tenendries services of free tenants thereof &c.: And also all and whole the barony of Tullicultrie comprehending all and whole the lands and barony of Tullicultrie &c. within the boundaries limits and marches respectively specified in the former infeftments made and granted to the foresaid William Earl of Stirling &c. And also all and whole the barony of Gartmore comprehending &c. But also we have erected created united and incorporated and by the tenor of this our present charter with advice and consent foresaid do erect create unite and incorporate all and sundry the foresaid lordships lands baronies and others above described and all the parts and pertinents of the said lordships and baronies respectively along with the mines and minerals of gold silver and other minerals foresaid with the coals and coal-heughs within the bounds of the foresaid lands baronies and others before written or within the flood-mark of the said lands into one whole and free barony and earldom to be now and in all time coming called the Earldom of Stirling with the title style and dignity of Earl conform to the date of creation of the said Earl above mentioned: As also we will and grant and for us and our successors decern and ordain that one sasine to be taken now and in all time coming by the said William Earl of Stirling and his above-written at our Castle of Edinburgh or upon the ground of the lands of the foresaid lordships and barony of Nova Scotia and Canada respectively or of any part thereof, by deliverance of earth and stone of the ground of the foresaid Castle or respective lands allenarly without any other sasine is and shall stand as valid and sufficient a sasine for all and whole the lands and others of the foresaid lordships and barony respectively or for any part of the same as if a particular sasine should be taken upon each part and portion of the said lands and others respectively by delivery of all the usual symbols notwithstanding that the same lye discontiguous and require different sasines and various symbols and in like manner that one sasine to be taken now and in all time coming by the said William Earl of Stirling and his above written upon the ground of the lands of the foresaid baronies of Tullibodie Tullicultrie or Gartmore or of any part thereof by deliverance of earth and stone of the ground of any of the foresaid lands allenarly without any other sasine is and shall stand as valid and sufficient a sasine for all and whole the lands and others of the foresaid baronies respectively or for any part and portion of the said lands and others as if a particular sasine should be taken upon each part thereof respectively by deliverance of all the usual symbols notwithstanding that the same lye discontiguous and in several sheriffdoms and require different sasines and various symbols anent which sasines and all that can follow thereupon we with advice and consent foresaid have dispensed and by the tenor of these presents for us and our successors dispense for ever To have and to hold the foresaid dignities with the titles and honours of Earl of Stirling Viscount of Stirling and of Canada Lord Alexander of Tullibodie with all and sundry privileges preeminences prerogatives liberties and immunities thereto pertaining and belonging by the foresaid William Earl of Stirling and his above-written of us and our successors for ever in all and sundry our and our successors Parliaments general conventions private and public councils with the right place and power of bearing suffrages therein with all other prerogatives pre-eminencies privileges liberties and immunities belonging or that can pertain and belong to an Earl within our kingdom in time past or to come. In testimony whereof to this our present charter we have commanded our Great Seal to be appended. Witnesses the most reverend father in Christ and our well-beloved councillor John by the mercy of God archbishop of St Andrews

primate and metropolitan of our kingdom of Scotland our chancellor our well-beloved cousins and councillors James Marquis of Hamilton Earl of Arran and Cambridge Lord Aven and Innerdaile Robert Earl of Roxburgh Lord Ker of Cesfurd and Cavertoun keeper of our Privy Seal our beloved familiar councillors Sir John Hay of Barro clerk of our Rolls Register and Council John Hamiltoun of Orbestoun our Justice-Clerk and John Scot of Scotstarvet Director of our Chancery knights at our Court of Quhythall the seventh day of the month of December in the year of God one thousand six hundred and thirty-nine and of our reign the fifteenth year.

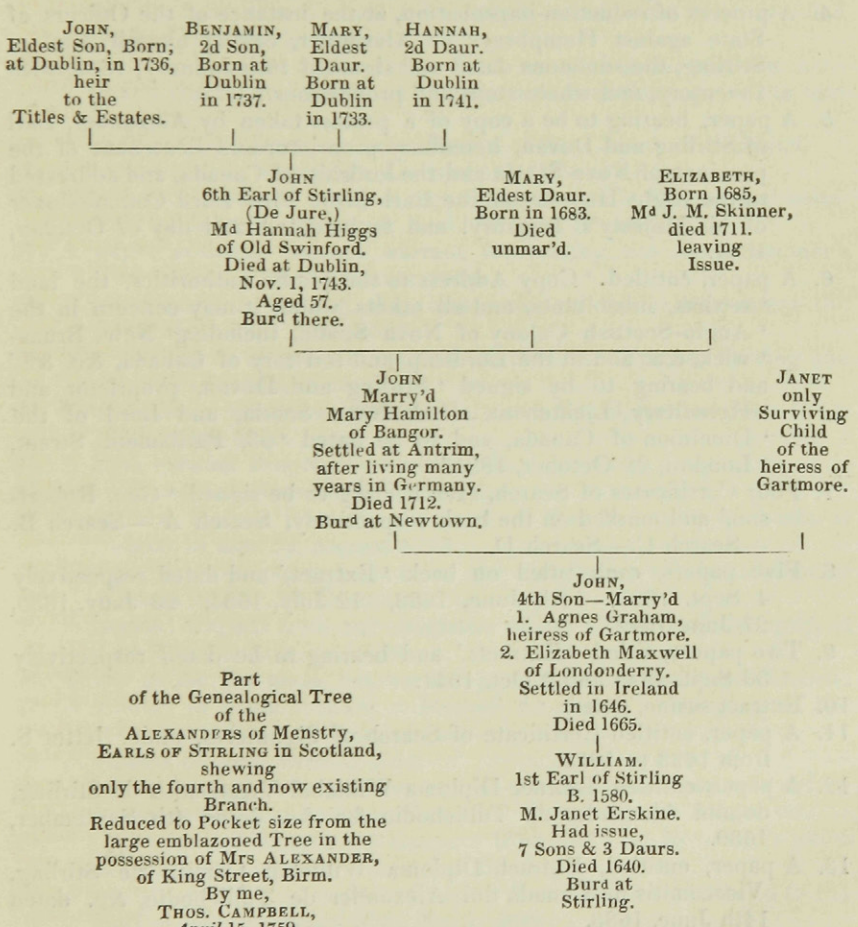
[Free.]

By the Signet.

C. INNES, *A. D.*

APPENDIX, No. III.

REFERRED TO IN THE FOREGOING INDICTMENT.



Part
of the Genealogical Tree
of the
ALEXANDERS of Menstry,
EARLS OF STIRLING in Scotland,
shewing
only the fourth and now existing
Branch.
Reduced to Pocket size from the
large emblazoned Tree in the
possession of Mrs ALEXANDER,
of King Street, Birm.
By me,
THOS. CAMPBELL,
April 15, 1759.

C. INNES, *A. D.*

INVENTORY of Productions referred to in the foregoing Indictment.

1. A summons of proving the tenor at the instance of Humphreys or Alexander, or Earl of Stirling, against Watts and Duer, dated and signeted 12th October, 1829, with Inventory, and whole steps and productions of the process following thereon.
2. A summons of reduction-improbation, declarator, &c. at the instance of the same pursuer against William Cunninghame Cunninghame Grahame, dated and signeted 1st September, 1830, with Inventory, and whole steps and productions of the process following thereon,
3. A summons of proving the tenor at the instance of the same pursuer against William Cunninghame Cunninghame Grahame and others, dated and signeted 2d September, 1830, with Inventory, and whole steps and productions of the process following thereon.
4. A process of reduction-improbation, at the instance of the Officers of State against Humphreys or Alexander, calling himself Earl of Stirling, the summons dated and signeted 16th January, 1833, with Inventory, and whole steps and productions.
5. A paper, bearing to be a copy of a protest taken by Alexander, Earl of Stirling and Dovan, hereditary proprietor and lieutenant of the province of Nova Scotia and the lordship of Canada, and addressed to the Right Honourable the Earl Grey, First Lord Commissioner of his Majesty's Treasury, and to be dated 22d day of October, 1831.
6. A paper, entitled 'Copy Address to the public authorities, the land 'settlers, inhabitants, and all others whom it may concern in the 'Anglo-Scottish Colony of Nova Scotia, including New Bruns-'wick, &c. and in the Lordship and territory of Canada, &c. &c.' and bearing to be signed 'Stirling and Dovan, proprietor and 'Hereditary Lieutenant of all Nova Scotia, and Lord of the 'Dominion of Canada, and to be dated '53, Parliament Street, 'London, 28 October, 1831.'
7. Four Certificates of Search, each bearing to be signed 'Geo. Robertson,' and marked on the back respectively, Search A.—Search B. —Search C.—Search D.
8. Five papers, each titled on back 'Extract,' and dated respectively 4 Sept. 1630, 14th June, 1633, 12 July, 1634, 23 Jany. 1636, 27 June 1642.
9. Two papers, titled 'Extracts,' and bearing to be dated respectively 30 Sept. 1641 and 2 Oct. 1641.
10. Extract sasine, dated
11. A paper, entitled Certificate of Search of Signatures, under letter S. from 1623 to 1653.
12. A paper, entitled, Extract Diploma Willielmi Vicecomitis de Stirling, domini Alexander de Tulliebodie, &c. &c. dated 4th September, 1630.
13. A paper, entitled, Extract Diploma Willielmi Comitis de Stirling, Vicecomitis de Canada dni Alexander de Tulliebodie, &c. dated 14th June, 1633.

14. A Crown Charter of King Charles, in favour of the City of Edinburgh, dated 11 December 1639.
15. Original Signature in favour of the same city, dated 11 December 1639, or extract or certified copy of the same.
16. Part of the record of Signatures, containing the said signature recorded, or extract or certified copy of the said Record.
17. Part of the Register of the Privy Seal, containing the precept for the said charter recorded, or an extract or certified copy of the said Register.
18. Part of the Register of the Great Seal containing the said charter recorded, or an extract or certified copy thereof.
19. A Crown Charter of King Charles, in favour of the Governors of Heriot's Hospital, dated 11 December 1639.
20. Original Signature in favour of the said Hospital, dated 11 December 1639, or an extract or certified copy thereof.
21. Part of the Record of Signatures, containing said last mentioned signature registered, or extract or certified copy of the said Register.
22. Part of the Register of the Privy Seal, containing the precept for the said last mentioned charter recorded, or an extract or certified copy of the said Register.
23. Part of the Register of the Great Seal, containing the said last mentioned charter registered, or an extract or certified copy of the said Register.
24. A book entitled, Spottiswood's History of the Church of Scotland.
25. A book entitled, Crawfurd's Lives of the Officers of State.
26. Searches or Notes of searches regarding the death, funeral, and testament of John Spottiswood, Archbishop of St Andrews.
27. A paper entitled, Extract warrant for sealing the Commissioner's Commission, 13th November 1638.
28. A paper entitled, Extract the Commissioners' declaration anent the Great Seal, 14th Nov. 1638.
29. Three volumes of a book entitled Mercure de France, bearing the dates 1715, 1718, 1726.
30. Four volumes of a book entitled Almanach Royal, for the years 1717, 1718, 1719, 1720.
31. A book entitled Biographie Universelle.
32. A book entitled Oeuvres de Fontenelle.
33. Examined Extract from the Register of the Secretary of State of France, of date 24 August 1718.
34. Examined copy letters patent for the installation of the Bishop of Nismes, of date 26 February, 1711.
35. Examined Extract from the Registers of the Chapter of Cambray, of date 7 and 8 January 1715.
36. Thirty or thereby maps, bearing to be prepared by Guillaume Delisle.
37. A volume of maps entitled, "Recueil de cartes," belonging to the Advocates' Library, Edinburgh.
38. A volume of maps without title.
39. A paper bearing to be translations of certain documents referred to in the Indictment against Alexander Humphreys or Alexander.
40. A paper entitled Translated Extracts from M^elle^ Le Normand's letter of 17th Oct^r^. 1838 to the Earl of Stirling.
41. A paper entitled Translation of a letter from M^elle^ Le Normand to the Earl of Stirling, dated 26th Nov^r^. 1838.

42. A paper entitled Translation of M^elle^ Le Normand's letter of 9th Jany. 1839 to the Earl of Stirling.
43. A paper entitled Translation of M^elle^ Le Normand's letter to the Countess of Stirling, dated Paris, 18th Oct^r^. 1837.
44. A paper entitled Translation of M^elle^ Normand's letter to the Earl of Stirling, dated Paris, Nov. 8th, 1837.
45. A paper entitled Translated Extracts from M^elle^ Le Normand's letter of 26th Sept^r^. 1838 to the Earl of Stirling.
46. Paper, entitled Copy Letter M^elle^ Le Normand, 19 April 1838.
47. A letter addressed to Madame La Comptesse de Stirling, and bearing to be signed Le Normand, and to be dated 16 Juin 1838.
48. A letter docqueted Paris, 13 Augst. 1838, M^elle^ Le Normand, R. 17th Do.
49. A letter docqueted Paris, 30th Novr. 1838, M^elle^ Le Normand, R. 5th December.
50. A letter docqueted 1839, Paris, Jany. 8th, M^elle^ Le Normand to Lady S. R. 9th Feby.
51. A letter bearing to be dated Paris ce 9 Janvier 1839, and to be addressed to Madame Madame la Comtesse de Stirling, and to be signed Le Normand.
52. A letter docqueted 1839, Paris, 4th Feby. M^dle^ Le Normand & Monsr. T. R. 7 & 8th Do.
53. A paper, entitled extract from a private deed or agreement on the part of the Earl of Stirling, to repay by instalments to M^elle^ Le Normand, the amount in principal and interest of different Loans advanced to the said Earl, between 1815 and 1837.

C. INNES, *A. D.*

LIST OF WITNESSES.

1. George Tait, Esquire, now or lately sheriff-substitute of the county of Edinburgh.
2. Archibald Scott, now or lately procurator-fiscal of said county.
3. James Wilson, now or lately sheriff-clerk of said county.
4. James Wilson, junior, now or lately sheriff-clerk-depute of said county.
5. Richard John Moxey, now or lately clerk in the sheriff-clerk's office Edinburgh.
6. James Mackenzie, now or lately sheriff-officer in Edinburgh.
7. Thomas Thomson, Esquire, Deputy Clerk Register, Edinburgh.
8. Richard Mackenzie, Esquire, writer to the signet, Edinburgh.
9. Alexander Macdonald, Esquire, keeper of the Register of Deeds, Edinburgh.
10. Robert Webster, now or lately extractor, Signet Office, Edinburgh.
11. George Robertson, Esquire, now or lately one of the keepers of the records, Edinburgh.
12. Doctor Andrew Fyfe, now or lately residing in George square, Edinburgh.
13. William Robertson, Esquire, now or lately one of the keepers of the Records, Edinburgh.
14. Archibald Ewart, Esquire, Deputy Director of Chancery, Edinburgh.

15. William Whytock, clerk in the Chancery Office, Edinburgh, and now or lately residing in East Preston street, in or near Edinburgh.
16. Jean Baptiste Theodore Alexandre Teulet, Joint Secretary of the Archives of the Kingdom of France, residing on the Quai Napoleon, Paris.
17. Stanislas Jacobs, geographical engraver, attached to the Institute of France, at Paris.
18. Amédée Melanie Fontaine, lately residing at No. 2, Rue de Tournon, Paris, and now or lately residing in India street, Edinburgh.
19. Hugues Francois Beaubis, lately residing in Rue des Canettes, Paris, and now or lately residing in India street, Edinburgh.
20. Pierre Francois Joseph Leguix, print and map-seller, lately residing at the Quai D'Orsay, Paris, and now or lately residing in India street, Edinburgh.
21. John Tyrrell, sometime an agent or in the employment of Alexander Humphreys or Alexander, calling himself Earl of Stirling, and now or lately residing in Regent street, London, or now or lately residing in Carlton Chambers, Regent street, London.
22. William Home Lizars, engraver, now or lately residing in Regent Terrace, Edinburgh.
23. John Smith, lithographist, now or lately residing in Dundas street, Edinburgh.
24. Ephraim Lockhart, Esquire, writer to the signet, Edinburgh.
25. Charles Alexander, now or lately residing with Alexander Humphreys or Alexander, calling himself Earl of Stirling, now or lately residing in Carlton place, Edinburgh.
26. William Shiell, assistant clerk of Session, now or lately residing in Duncan street, Newington, near Edinburgh.
27. John Morison, assistant clerk of Session, now or lately residing in West Laurieston lane, in or near Edinburgh.
28. James Ferguson, Esquire, now or lately principal clerk of Session, and now or lately residing in Heriot row, Edinburgh.
29. Francis Espinasse, teacher, now or lately residing in Frederick street, Edinburgh.
30. Angus Fletcher, Esquire, advocate, now or lately residing in Stafford street, Edinburgh.
31. Dr David Irving, librarian to the Faculty of Advocates, Edinburgh, and now or lately residing in Meadow place, near Edinburgh.
32. Eugene Alexander, now or lately residing with the said Alexander Humphreys or Alexander.
33. Peter Anderson, Esquire, writer to the signet, Edinburgh.
34. Isaac Bayley, Esquire, writer, now or lately residing in Regent Terrace, Edinburgh.
35. Robert Backworth, clerk to Messrs Richardson and Connell, solicitors, London.
36. The Reverend Hugh Scott, now or lately residing in Edinburgh, or now or lately minister of the parish of Anstruther Easter, Fife-shire.
37. John Adams, solicitor, now or lately residing in North Charlotte street, Edinburgh.
38. Henry R. Madden, surgeon, now or lately residing Warriston crescent, Edinburgh.

C. INNES, *A. D.*

LIST OF ASSIZE

For the Trial of ALEXANDER HUMPHREYS or ALEXANDER, pretending to be Earl of Stirling, if the said Alexander Humphreys or Alexander claims, and is entitled to the privilege of a Landed Man.

City of Edinburgh.

Landed Men.

John Learmonth, residing Moray place
Thomas Henderson, seedsman, Melville crescent
George M'Miken Torrance of Kilsaintninian, George square
James Hunter of Thurston, Moray place
5. James Smith of Whitchester, Gayfield square
Thomas Whyte of Glenesslin, there
John Greig of Lethangie, Royal Terrace
William Henry Brown of Ashley, Forth street
Captain David Brown of Park, Regent Terrace
10. John Hamilton Colt of Gartsherrie, there
William Plomer, residing York place
Sir George Macpherson Grant, Baronet, George street
James Baillie of Falahill, Greenside house
William Crawfurd of Cartsburn, Bellevue crescent
15. Alexander M'Duff of Bonhard, Regent Terrace
William Stothert of Cargen, Randolph crescent
James MacKintosh of Lamancha, Buccleuch place
George Cleghorn of Weens, Regent Terrace.

Common Jurors.

William Neilson, spirit-merchant, Rosebank
20. John Scott, baker, West Preston street
John Masterton, spirit-dealer, James street
William Clark, flesher, Thistle street
Peter Wilson, spirit-dealer, Bank street
Daniel Connel, spirit-merchant, Rose street
25. George Johnston, hotel-keeper, Nicolson street
David Hay, silk-mercer, Catharine street
Bernard Burns, spirit-dealer, East Crosscauseway
Kenneth Scoon, baker, Clerk street
Alexander Dickson, smith, James' square
30. James Burt, residing Broughton street
William Hamilton, bootmaker, Montague street
Henry Haig, engraver, Brighton street
James Stewart, coach-hirer, South Charlotte street
William Robinson, cowfeeder, Fountainbridge
35. Alexander Allan, cabinet-maker, Hope street.

Town of Leith.

Landed Man.

John Ainslie of Huntington, Constitution street.

Common Jurors.

John Gilbert, pawnbroker, Coatfield lane
Alexander Downs, victual-dealer, Kirkgate
40. George Campbell, grocer, Elbe street
James Torry Douglas, general agent, John's place
John Watson of Hull and Leith Shipping Company, Vanburgh place
James Rutherford, contractor, Whitehouse, Leith Links
John Martin, grocer, Giles's street
Walter Ritchie, plasterer, Kirkgate.

County of Edinburgh,

Landed Men.

45. George Glendinning of Millrig
Archibald Wilkie of Ormistonhill
John Davie Martin of Gavieside and Brotherton, Gavieside
David Davidson of Townhead, New Mills
William Stewart Walker of Bowland
50. John Inglis of Redhall
William Tait Burton of Toxside, Mauldslee
William Macdonald of Caillie, Powderhall.

Common Juror.

Robert Gray, farmer, Badpark.

County of Linlithgow.

Landed Men.

James Dundas of Dundas
55. James John Cadell of Grange
John Russel of Mosside.

Common Jurors.

William Duncan, junior, builder, Philipstoun
John Duncan, grocer, Linlithgow.

County of Haddington.

Landed Men.

Robert Ainslie of Redcoll, Redcoll
60. John Anderson of Whitburgh, Whitburgh
Sir John Hall, Baronet, of Dunglass
Robert Hay of Linplum, Ormiston.

Common Jurors.

Samuel Cathie, slater and glazier, Haddington
James Forrester, farmer, Laverock Law
65. Peter Punton, baker, Aberlady.

LIST OF ASSIZE

For the Trial of ALEXANDER HUMPHREYS or ALEXANDER, pretending to be Earl of Stirling, if the said Alexander Humphreys or Alexander does not claim, or is not entitled to, the privilege of a Landed Man.

City of Edinburgh.

Special Jurors.

George Hogarth, accountant, Torphichen street
Charles Hargitt, teacher of music, Forres street
James Ewan Newton, corn-merchant, Queen's place, Leith Walk
William Henderson, jeweller, Rosehall
Robert Hogue, dentist, Hill street
Alexander Paterson, merchant, Hillside crescent
James Black, residing St Cuthbert street
Lieutenant Patrick Deuchar of the Royal Navy, George street
Adam Burn, coach-lace-maker, Dublin street
James Wilson, wright and builder, Glover street, Leith
Charles Lees, portrait-painter, South Charlotte street
Robert Gibb, residing Haddington place.

Common Jurors.

William Neilson, spirit-merchant, Rosebank
John Scott, baker, West Preston street
John Masterton, spirit-dealer, James' street
William Clark, flesher, Thistle street
Peter Wilson, spirit-dealer, Bank street
Daniel Connal, spirit-merchant, Rose street
George Johnston, hotel-keeper, Nicolson street
David Hay, silk-mercer, Catharine street
Bernard Burns, spirit-dealer, East Crosscauseway
Kenneth Scoon, baker, Clerk street
Alexander Dickson, smith, James square
James Burt, residing Broughton street
William Hamilton, bootmaker, Montague street
Henry Haig, engraver, Brighton street
James Stewart, coach-hirer, South Charlotte street
William Robertson, cowfeeder, Fountainbridge street
Alexander Allan, cabinet-maker, Hope street
James Derrin, plasterer, Richmond place
John Cay, tinsmith, Barony street
Thomas Malcolm, piano-forte-maker, Drummond street
Ebenezer Scott, baker, Lothian street
Robert Dickson, wine-merchant, Brunswick street, Stockbridge
Douglas Murray, tailor, Crighton street.

Town of Leith.

Special Jurors.

John Paterson Strong, merchant, Charlotte street
George Mill, banker, Bernard street
David Ainslie, residing Constitution street

Common Jurors.

John Gilbert, pawnbroker, Coatfield lane
Alexander Downs, victual-dealer, Kirkgate
George Campbell, grocer, Elbe street
James Torry Douglas, general agent, John's place
John Watson of Hull and Leith Shipping Company, Vanburgh place
James Rutherford, contractor, Whitehouse, Leith Links.

County of Edinburgh.

Special Jurors.

James Kemp, merchant, Musselburgh
Thomas Young, merchant, Bank-house
Andrew Paton Bell, residing St Bernard's crescent.

Common Jurors.

Robert Gray, farmer, Badpark
Archibald Young, farmer, Long Dalmahoy
William Binnie, junior, wright, Hermiston
John Wilkie, carter, Corstorphin
Alexander Aitken, farmer, Fisherrow
John Kerr, farmer, Carmilty.

County of Linlithgow.

Special Jurors.

John Kersopp, merchant, Linlithgow
Captain John Durie, residing Kirkhill.

Common Jurors.

William Duncan, Junior, builder, Philipstoun
John Duncan, grocer, Linlithgow
John Cruikshanks, gardener, Burnfoot.

County of Haddington.

Special Jurors.

Archibald Scott, farmer, Southfield
Alexander Howden, farmer, Congalton Mains.

Common Jurors.

Samuel Cathie, slater and glazier, Haddington
James Forrester, farmer, Laverock Law
Peter Punton, baker, Aberlady
James Aitchison, wright, Nungate
Thomas Brockie, tailor, Haddington.

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EDINBURGH, *April*, 1839.

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[As this document has been already printed at page 18 of the Introduction to the volume, it has been omitted here.]

[No. 6 of Inventory of Productions.]

Paper entitled COPY ADDRESS to the Public Authorities, the Land Settlers, Inhabitants, and all Others whom it may concern, in the Anglo-Scottish Colony of Nova Scotia, including New Brunswick, &c. and in the Lordship and Territory of Canada, &c. 28th October, 1831.

[Printed at page 15 of Introduction, and therefore omitted here.]

[No. 8 of Inventory of Productions, *a*.]

EXTRACT, Diploma Willielmi Vicecomitis de Stirling domini Alexander de Tulliebodie, &c. &c.—4 Sept. 1630.

[Register of the Great Seal, Book LIII. Part 2, No. 135.]

CAROLUS &c. Igitur Nos regii nostri favoris et gratie tesseram in eum conferre volentes fecimus creavimus et constituimus tenoreque presentium ex regia nostra potestate et authoritate regali facimus creamus et constituimus prefatum dominum Willielmum Alexander Vicecomitem de Stirling dominum Alexander de Tullibodie dando et concedendo sibi et heredibus suis masculis cognomen et arma de Alexander gerentibus titulum honorem gradum et dignitatem Vicecomitis dicti regni nostri Scotie &c.

[Translation of the above patent of William Viscount Stirling, 4 Sep. 1630.]

Charles, &c. Therefore We, willing to confer on him a mark of our Royal favour and grace, have made, created, and constituted, and by the tenor of these presents, of our Royal power and kingly authority, make, create, and constitute the foresaid Sir William Alexander, Viscount of Stirling, Lord Alexander of Tullibodie, giving and granting to him and his heirs male bearing the surname

and arms of Alexander, the title, honour, and dignity, of a Viscount of our said kingdom of Scotland, &c.

[No. 8 of Inventory of Productions, *b*.]

EXTRACT, Diploma Willielmi Comitis de Stirling Vicecomitis de Canada domini Alexander de Tulliebodie &c 14 Jun. 1633.

[Register of the Great Seal, Book LIV. No. 135.]

Carolus &c. Igitur Nos ex auctoritate regali et potestate regia fecimus constituimus et creavimus tenoreque presentium facimus constituimus et creamus prefatum Willielmum Vicecomitem de Stirling Comitem de Stirling Vicecomitem de Canada Dominum Alexander de Tullibodie dan. et conceden. prout tenore presentium damus et concedimus sibi suisque heredibus masculis imperpetuum cognomen et arma de Alexander gerentibus titulum honorem ordinem et gradum dignitatis Comitis &c &c.

[Translation of the above patent of William Earl of Stirling, 14 June 1633.

Charles, &c. Therefore We, of our kingly authority and royal power, have made, constituted, and created, and by the tenor of these presents make, constitute, and create the foresaid William Viscount Stirling, Earl of Stirling, Viscount of Canada, Lord Alexander of Tullibodie, giving and granting, as by the tenor of these presents we give and grant to him and his heirs male for ever, bearing the surname and arms of Alexander, the title, honour, rank, and degree of dignity of an Earl, &c. &c.

[No. 15 of Inventory of Productions.]

EXTRACTS from Original Signature in favour of the City of Edinburgh; of the Burgh of Regality of Canongate — 11 Dec. 1639.

CHARLES R.

OURE SOVERANE LORD with expres advyse and consent of his hienes richt traist cousigne and counsalour Johne erle of Traquair Lord Lyntoun and Caverstoun &c. heich thesaurar collectour and Comptroller of the kingdome of Scotland and of his hienes familiar and trustie counsallour Sir James Carmichael of that Ilk knicht Depute in the saidis offices and als with consent of the remanent Lordis of his Majesties excheker Commissioners of the said kingdome ORDAINES ane charter to be maid under his hienes great seill in dew forme GIVEAND grantand and dispone-

and to his hienes lovitis The Provest Baillies counsall and communitie of the burgh of Edinburgh and thair successouris heretablie All and sindrie the particular landis burgh of regalitie superioritie priviledge of regalitie and utheris efterspecifeit viz The burgh of regalitie callit the Cannogait lyand betuix the burgh of Edinburgh and the abbay of Halyrudhous, &c. &c.

. . . . . .

. . . . . .

And that the said Charter be extendit in the best forme with all claussis necessar and preceptis be direct therupon in forme as effeiris &c Gevin At his Majesteis Court of Quhythall the ellevint day of December the yeir of God I^{m} VI^{c} threttie nyne zeiris.

Compositio fiftie poundis Sterling.

Traquaire Th^{r}
J Hamiltoun
J Balcomye
Cranstounriddell
Craighall

Pleis your Sacred Majestie
This containes ane Gift be your Majestie
to the Provest baillies Counsall and Communitie
of the Brugh of Edinburgh of the richt and superioritie of the burgh of Cannogait &c &c &c

S^{r} Thomas Hope

[No. 16 of Inventory of Productions.]

EXTRACTS from the Register of Signatures, being parts of said Signature in favour of the City of Edinburgh, dated 11th Decem. 1639. [Book lv. fol. 215.]

OURE Souerane Lord with expres auise and consent of his hienes right traist cowsing and counsellour Johnne earle of Traquair Lord Lyntoun and Caverstoun heigh Thesaurar collector and comptrollar of the kingdome of Scotland and of his familiar and trustie counsellor Sir James Carmichaell of that Ilk knight depuite in the saidis officeis and als with consent of the remanent Lordis of his Majesties Exchecker Commissionaris of the said kingdome Ordaines ane Charter to be maid under his hienes great seall in dew forme Gewand grantand and disponand to his hienes lowittis The Proveist baillies counsall and Communitie of the burgh of Edinburgh and thair successoris heritablie All and sindrie the particular landis burgh of Regalitie Superioritie priviledge of regalitie and utheris efterspecifeit viz. The burgh of Regalitie callit the Cannongait lyand betuix the burgh of Edinburgh and the abbay of Halyruidhous &c. &c. &c.

. . . . . .

. . . . . .

And that the said Chairter be farder extendit &c. Gevin At Quhithall the Ellewint day of December 1639 Registrat 29. Januar 1640. Suprascribitur *Charles R.* Et subscribitur sic *Traquaire Thr. J Hamilton J Balcomie Cranstounriddell Craighall.*
Compositio vj^{c} li.

[No. 17 of Inventory of Productions.]

EXTRACTS from the REGISTER of the PRIVY SEAL, being parts of the Precept for the said Charter in favour of the City of Edinburgh, dated 11th December, 1639.—[Book cix. fo. 146.]

CAROLUS, &c. QUIA, &c. DEDIMUS concessimus et disposuimus dilectis nostris preposito ballivis consulibus et communitati burgi nostri de Edinburgh eorumque successoribus hereditarie Omnes et singulas particulares terras Burgum regalitatis superioritatem privilegium regalitatis aliaque subtus specificata viz. burgum regalitatis vicicanonicorum lie cannogaitt nuncupat. jacen. juxta burgum nostrum de Edinburgh et monasterium sanctæ crucis, &c. &c.

. . . . . .

. . . . . .

VOBIS &c Apud curiam nostram de Quhythall vndecimo die mensis Decembris anno Domini millesimo sexcentesimo trigesimo nono et regni nostri anno decimo quinto.
6 lib.

Per Signetum.

[No. 18 of Inventory of Productions.]

EXTRACTS from the REGISTER of the GREAT SEAL, being parts of said Charter to City of Edinburgh, dated Dec. 11, 1639.—[Book lvi. No. 116.]

Carolus Dei gratia magne Britannie Francie et Hibernie Rex fideique defensor omnibus probis hominibus totius terre sue clericis et laicis Salutem Sciatis nos cum expressis avisamento et consensu confisi nostri consanguinei et consiliarii Joannis Comitis de Traquair Domini Lintoun et Caverstoun &c. nostri magni thesaurarii collectoris et computorum rotulatoris huius regni nostri Scotie ac fidelis nostri consiliarii Domini Jacobi Carmichaell de Eodem Militis Barronetti nostri deputati in dictis officiis necnon cum consensu reliquorum dominorum nostri scaccarii ejusdem regni nostri nostrorum commissionariorum Dedisse concessisse disposuisse et hac presenti carta nostra confirmasse tenoreque eiusdem dare concedere disponere ac pro nobis et successoribus nostris pro perpetuo confirmare Dilectis nostris preposito ballivis consulibus

et communitati burgi nostri de Edinbrugh eorumque successoribus hereditarie omnes et singulas particulares terras burgum regalitalis superioritatem privilegium Regalitatis aliaque subtus specificata, viz. Burgum regalitatis Vicicanonicorum lie Cannongait nuncupat. jacen. juxta burgum nostrum de Edinbrugh et Monasterium Sancte Crucis, &c. &c.

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. . . . . .

In Cuius Rei Testimonium huic presenti carte nostre magnum sigillum nostrum apponi precepimus Testibus ut in alijs cartis consimilis date preceden, &c. Apud aulam nostram de Whythall vndecimo die mensis Decembris Anno Domini Millesimo sexcentesimo trigesimo nono Et anno regni nostri decimo quinto.

[No. 14 of Inventory of Productions.]

EXTRACTS from a CROWN CHARTER of King Charles in favour of the City of Edinburgh, dated 11 Dec. 1639.

CAROLUS dei gratia Magne Britannie Francie et Hibernie Rex fideique Defensor OMNIBUS probis hominibus totius terre sue clericis et laicis Salutem SCIATIS nos cum expressis avisamento et consensu confisi nostri consanguinei et consiliarii Joannis Comitis de Traquair Domini Lintoun et Caverstoun &c. nostri Magni Thesaurarii Collectoris et Computorum rotulatoris hujus regni nostri Scotie ac fidelis nostri consiliarii Domini Jacobi Carmichaell de Eodem militis Baronetti nostri deputati in dictis officiis Necnon cum consensu reliquorum Dominorum nostri Scaccarii ejusdem regni nostri nostrorum Commissionariorum DEDISSE concessisse disposuisse et hac presenti carta nostra confirmasse tenoreque ejusdem dare concedere disponere ac pro nobis et successoribus nostris pro perpetuo confirmare DILECTIS NOSTRIS Preposito Ballivis Consulibus et Communitati burgi nostri de EDINBURGH eorumque successoribus hereditarie OMNES et singulas particulares terras Burgum Regalitatis superioritatem privilegium Regalitatis aliaque subtus specifiata viz. Burgum Regalitatis Vicicanonicorum lie Cannogait nuncupat. Jacen. juxta burgum nostrum de Edinburgh et Monasterium Sancte Crucis &c. &c.

. . . . . .

. . . . . .

IN CUJUS REI TESTIMONIUM huic presenti carte nostre magnum sigillum nostrum apponi precepimus TESTIBUS predilectis nostris consanguineis et consiliariis Jacobo Marchione de Hamiltoun Comite Arranie et Cantabrigie domino Aven et Innerdaill &c Willielmo Comite de Stirling Vicecomite de Cannada domino Alexander de Tulliebodie &c nostro Secretario dilectis nostris familiaribus consiliariis Dominis Joanne Hay de Barro

nostrorum Rotulorum registri ac consilii Clerico Joanne Hamiltoun de Orbiestoun nostri Justiciarie clerico et Joanne Scott de Scottistarvett nostre Cancellarie directore militibus Apud aulam nostram de Whythall undecimo die mensis Decembris Anno Domini Millesimo sexcentesimo trigesimo nono Et anno regni nostri decimo quinto.

[No. 20 of Inventory of Productions.]

EXTRACTS from ORIGINAL SIGNATURE TO THE BURGH OF EDINBURGH AS GOVERNORS OF HERIOT'S HOSPITAL OF THE TOUN AND LANDS OF BRUCHTOUN, &c.—11 Dec. 1639.

CHARLES R

OUR SOUERANE LORD with expres advyse and consent of his hienes rich traist cousigne and counsallour Johnne Erle of Traquair Lord Lyntoun and Caverstoun &c. heich thesaurer Collectour and Comptroller of the kingdome of Scotland and of his hienes trustie and familiar counsallour Sir James Carmichaell of that Ilk knicht depute in the saids offices and als with consent of the remanent Lordis of his Majesties excheker Commissioneris of the said kingdome ORDANES ane Charter to be maid undir his hienes greit seill In dew forme GEVAND grantand and disponand To his hienes lovittis The Provest baillies ministeris and counsall of the burgh of Edinburgh as ffeoffis in trust and governouris of Heriottis hospitall to the use and behuif of the said Hospitall callit Heriottis hospitall heretablie All and sindrie the landis mylnes superioriteis few dewties and utheris respective eftir specifeit viz All and haill the toun and landis of Bruchtoun &c &c &c

. . . . . .

. . . . . .

And that the said Charter be extendit in the best forme with all claussis necessar and preceptis to be direct heirupon In forme as effeiris &c Gevin at His Majesteis Court of Quhythall the ellevint day of December the yeir of God I^{m} VI^{c} and threttie nyne yeiress

Compositio Ten merkis

Traquaire Th^{r}
S^{r} Thomas Hope
J Hamiltoun
Cranstounriddell
Craighall

Please your Sacred Majestie
This contains ane Gift to the Provest Baillies
Ministeris and Counsell of the brughe of Edinburgh
as feoffis In Trust and Governours of Heriottis Hospitall of certaine landis &c &c

S^{r} Thomas Hope

[No. 21 of Inventory of Productions.]

EXTRACTS from the RECORD OF SIGNATURES, being parts of said Signature in favour of the GOVERNORS OF HERIOT'S HOSPITAL, dated 11 Dec. 1639.—[Book lv. fol. 217.]

OURE Souerane Lord with expres auise and consent of his hienes richt traist cowsing and counsellour Johnne earle of Traquair Lord Lyntoun heighe thesaurar collector and comptrollar of the kingdome of Scotland and of his hienes trustie and familiar Counsalour Sir James Carmichaell of that Ilk knight Depuite in the saidis officeis. And als with consent of the remanent Lordis of his Majesties Excheker commissionaris of the said kingdome Ordaines ane Charter to be maid under his heines great seall in dew forme Gewand grantand and disponand To his hienes louittis The Proveist baillies Ministeris and Counsall of the said burgh of Edinburgh as ffeoffis in trust and Governouris of Heriottis hospitall to the use and behuiff of the said hospitall callit Heriottis hospitall heritablie All and sindrie the landis milnis superioriteis fewdewties and utheris respective efterspecifeit, viz. All and haill the toun and landis of Brochtoun &c &c &c

. . . . . .

. . . . . .

And that the said Charter be extendit in the best forme with all claussis neidfull. And preceptis be direct &c. Gevin At his Majesteis Court At Quhythall The Ellewint day of December 1639 Suprascribitur *Charles R.* Et subscribitur sic *Traquaire Thr Sr Thomas Hope J Hamiltoun Cranstounriddell Craighall.*

Registrat 30 Januar 1640.

Compositio vj li xiij s. iiij d.

[No. 22 of Inventory of Productions.]

EXTRACTS from the Register of the Privy Seal, being parts of the Precept for the said Charter in favour of the Governors of Heriot's Hospital, dated 11 Dec. 1639.— [Book cix. f. 139.]

Carolus &c. Quia &c. Dedimus concessimus et disposuimus dilectis nostris preposito ballivis ministris et consulibus burgi nostri de Edinburgh prout in feudo affidatis lie as feoffis in trust et Gubernatoribus Herioti Hospitij lie Heriots Hospitall ad usum et commodum dicti hospitij vocat Heriotis Hospitall eorumque successoribus hereditarie Omnes et singulas terras molendina superi-

oritates feudifirmarias devorias aliaque respective subtus specificata, viz. Totas et Integras villam et terras de Brughtoun &c. &c.

. . . . . .

. . . . . .

VOBIS &c. APUD curiam nostram de Quhythall undecimo die mensis Decembris Anno Domini millesimo sexcentesimo trigesimo nono et regni nostri anno decimo quinto

4 lib x s.

Per Signetum.

[No. 23 of Inventory of Productions.]

EXTRACTS from the Register of the Great Seal, being parts of the said Charter in favour of the Governors of said Hospital, dated Dec. 11, 1639.—[Book lvi. No. 117.]

Carolus Dei gratia Magne Brittannie Francie et Hibernie Rex fideique defensor omnibus probis hominibus totius terre sue clericis et laicis salutem Sciatis nos cum expressis avisamento et consensu confisi nostri consanguinei et consiliarii Joannis Comitis de Traquair Domini Lintoun et Caverstoun &c. nostri magni Thesaurarii collectoris et computorum rotulatoris hujus regni nostri Scotie ac fidelis nostri consiliarii domini Jacobi Carmichaell de Eodem militis baronetti nostri deputati in dictis officiis necnon cum avisamento et consensu reliquorum dominorum nostri Scaccarii nostrorum commissionariorum dicti regni nostri Dedisse concessisse disposuisse et hac presenti carta nostra confirmasse Tenoreque ejusdem dare concedere disponere ac pro nobis et successoribus nostris pro perpetuo confirmare Dilectis nostris preposito ballivis ministris et consulibus burgi nostri de Edinburgh tanquam fidei commissariis lie feoffis in trust et Gubernatoribus Hereoti Hospitii lie Hereotts Hospitall ad usum et commodum dicti Hospitii vocati Hereotis hospitall eorumque successoribus hereditarie Omnes et singulas terras molendina superioritates feudifirme devorias aliaque respective subtus specificata viz. Totas et integras villam et terras de Brughtoun &c. &c.

. . . . . .

. . . . . .

In cuius Rei Testimonium huic presenti carte nostre Magnum Sigillum nostrum apponi precepimus Testibus ut in aliis cartis consimilis date preceden. Apud aulam nostram de Whythall vndecimo die mensis Decembris anno Domini millesimo Sexcentesimo trigesimo nono et anno Regni nostri decimo quinto.

[No. 19 of Inventory of Productions.]

EXTRACTS from a Crown Charter in favour of the Governors of Heriot's Hospital, 11 Dec. 1639.

CAROLUS dei gratia Magne Britannie Francie et Hibernie Rex fideique defensor OMNIBUS probis hominibus totius terre sue clericis et laicis Salutem SCIATIS Nos cum expressis avisamento et consensu confisi nostri consanguinei et consiliarii Joannis Comitis de Traquair domini Lintoun et Caverstoun &c. nostri magni Thesaurarii Collectoris et computorum rotulatoris hujus regni nostri Scotie ac fidelis nostri Consiliarii Domini Jacobi Carmichaell de Eodem militis Baronetti nostri deputati in dictis officiis necnon cum avisamento et consensu reliquorum Dominorum nostri Scaccarii nostrorum Commissionariorum dicti regni nostri DEDISSE concessisse disposuisse et hac presenti carta nostra confirmasse tenoreque ejusdem dare concedere disponere ac pro nobis et successoribus nostris pro perpetuo confirmare DILECTIS nostris Preposito Ballivis Ministris et Consulibus burgi nostri de Edinburgh tanquam fidei Commissariis lie ffeoffes in trust et gubernatoribus Herioti Hospitii lie Heriotes Hospital ad usum et commodum dicti Hospitii vocati Hereotes Hospitall eorumque successoribus hereditarie OMNES et singulas terras molendina superioritates feudifirme devorias aliaque respective subtus specificata viz. Totas et integras villam et terras de Brochtoun, &c. &c. &c.

. . . . . .

. . . . . .

IN CUJUS REI TESTIMONIUM huic presenti carte nostre magnum sigillum nostrum apponi precepimus TESTIBUS predilectis nostris consanguineis et consiliariis Jacobo Marchione de Hamiltoun Comite Arranie et Cantabrigie Domino Aven et Innerdail &c. Willielmo Comite de Stirling Vicecomite de Cannada domino Alexander de Tulliebodie nostro Secretario dilectis nostris familiaribus consiliariis Dominis Joanne Hay de Barro nostrorum rotulorum registri ac consilii clerico Joanne Hamiltoun de Orbiestoun nostre Justiciarie Clerico et Joanne Scott de Scottistarvett nostre Cancellarie directore militibus Apud Aulam nostram de Whythall undecimo die mensis Decembris Anno Domini millesimo sexcentesimo trigesimo nono Et anno regni nostri decimo quinto.

[No. 27 of Inventory of Productions.]

EXTRACT Warrant for Sealing the Commissioners' Commission, 13 Nov. 1638. [*Registrum Secreti Concilii.*]

Forsamekle as it hes pleased his Majestie upon diverse good considerations to committ the charge and keeping of his great seal

to his darrest cousine and counseller the Marques of Hamiltoun his Majesties Commissionar till his Majestie sall be graciouslie pleased to declare his further will and pleasure thereanent And whereas his Majestie hes made choice of his said cousine the Marques of Hamilton to be his Majesteis Commissioner for keeping and halding of Parliaments and assemblies and doing of sindrie other things at length specifeit in his Majesteis commission grantit to him of the date the day of And seing this Commission must necessarlie pas the Privie and great seales and seing the great seal is now in the said Lord Commissioner his owne keeping So as be the order of the Chancelarie it cannot be exped at the Chancelarie without a warrant Thairfoir the Lords of Secreit Counseill hes found it meit and necessar the Commission foresaid pas both at the privie and great seales And for this effect Ordanis and commandis the Lord keiper of the privie seale and writter thereto and the director of the chancellarie To writ and exped the Commission foresaid in the ordinar forme dew to thair place and charge and that the said Lord Commissioner caus append the great Seale thereunto And farther Ordanis and commands the said director of the chancellarie to write and exped all other patents and writts concerning his charge and office as he did in the time of anie precedent chancellours or during the time of the vacancie of that office Anent the doing quhairof the extract of this act sall be thair warrant.

[No. 28 of Inventory of Productions.]

EXTRACT The Commissioners' Declaration anent the Great Seale, 14 Nov. 1638. [*Registrum Secreti Concilii.*]

The whilk day James Marques of Hamilton his Majesties Commissioner Declared to the Lords of Privie Counsell that according to ane warrant and direction sent unto him under his Majesteis royall hand That he had receaved the resignation and dimission made be John Archbishop of St Andrews late lord high Chanceller of this kingdome and otheris in his name of the office of Lord Chanceller And that the said archbishop had delivered unto him his Majesties great seale and cashett to be keeped by him during his Majesteis royall will and pleasure and whill his Majestie sall be pleased to give further signification of his Majesteis pleasure And that in the meane time till his Majesteis pleasure be returned That his Majestie allowed and willed the said Lord Commissioner to append his Majesteis great seale to all infeftmentis patents and other letters and writts whereunto the said great seale is requisite and necessar wherethrow his Majesteis subjects susteane no harme nor skaith be the want of the said seale and cashett.

[No. 24 of Inventory of Productions.]

EXTRACT from Spottiswood's History of the Church of Scotland, being Inscription on Archbishop Spottiswood's Monument in Westminster Abbey, from his Life prefixed to said History.

Memoriæ sacrum.
Dominus Joannes Spotiswood
Ecclesiæ Sancti Andreæ
Archiepiscopus
Scotiæ primas
et regni
cancellarius.
viginti annos presbyter
undecem annos archiepiscopus
Glasgoensis, viginti quinque
annos S. Andreæ
et per
quatuor annos
regni Scotiæ cancellarius
ex hac vita in pace migravit
anno domini 1639
sexto calendas decembris
regni Caroli 15, ætatis suæ 74.

[No. 29 of Inventory of Productions.]

EXTRACT from the Mercure de France, being Lettre sur les ouvrages geographiques de M. Delisle premier Geographe du Roy, de l'Academie Royale des Sciences et sur sa mort.

Mercure de France, Mars 1726.

Je n'ai pas voulu interrompre la suite des années dans lesquelles il a publié ses cartes pour vous parler de l'honneur qu'il reçut lorsqu'il fut appellé pour aider les personnes chargées du soin de conduire les etudes de ce jeune Prince. Le feu Roy avoit envoyé M. l'Abbé Perrot consulter M. Delisle sur les choix des cartes que l'on devoit mettre entre les mains de jeune Dauphin et sur la methode que l'on devoit suivre pour l'instruire des premiers élemens de la Geographie. Lorsque ce Prince fut sur le trone et dans un âge un peu plus avancé, M. Delisle fut chargé de travailler avec lui sur la Geographie; il crut qu'il ne pouvoit mieux remplir les vues de ceux qui l'avoient appellé, qu'en dressant plusieurs cartes, sur lesquelles il marqua les noms modernes, et les noms anciens des mêmes lieux, et dont les divisions etoient relatives a certaines epoques determinées, afin d'eclaircir entierement l'histoire

des temps ausquels elle avoit rapport. Son travail fut si agréable au Roi que pour l'en recompenser il lui conféra par Brevet du 24 Août 1718, la qualité de Son premier Geographe, avec 1200 liv. d'appointemens. Il n'y avoit point d'exemple de ce titre de premier geographe du Roi; et comme c'étoit a son merite singulier qu'il avoit été accordé, on peut juger s'il sera possible de le remplacer.

[Translation of the preceding.]

LETTER on the Geographical Works of M. De l'Isle, First Geographer to the King, Member of the Academy of Sciences, and on his death.

From the Mercure de France, March 1726.

I have not chosen to interrupt the series of the years in which he published his maps, to tell you of the honour he received when he was called to assist the persons intrusted with the direction of this young Prince's studies. The late King had sent the Abbé Perrot to consult M. de l'Isle on the choice of the maps to be placed in the young Dauphin's hands, and on the method to be followed in teaching him the first elements of Geography. After this Prince was on the throne and a little older, M. de l'Isle was employed to assist his studies in Geography. He thought he could not better fulfil the views of those who had appointed him, than by preparing several maps on which he marked the modern names with the ancient names of the same places, and where the boundaries were suited to certain fixed epochs, for the purpose of rendering quite clear the history of the periods to which it related. His labours were so agreeable to the King, that as a recompense he conferred upon him by patent, of 24th August, 1718, the office of his first Geographer, with 1200 livres of salary. There was no former example of his title of first Geographer to the King, and as it was bestowed upon him for his singular merit, we may judge if it will be possible to supply his place.

[No. 33 of Inventory of Productions.]

EXTRACT from the Register of the Secretary of State of France, of date 24 August, 1718.

Du vingt quatre aoust mil sept cent dix huit.
Brevet de premier Géographe du Roy pour le Sr De l'Isle

AUJOURDHUY &c Le Roy étant à Paris ayant des preuves authentiques de la profonde érudition du Sieur Guillaume de l'Isle de l'academie royale des sciences par le grand nombre d'ouvrages de géographie qu'il a faits pour son usage et qui ont été reçus avec

une approbation générale dans le public, Sa Majesté de l'avis &c voulant l'attacher plus particulièrement à son service par un titre d'honneur qui luy procure en mesme tems les moyens de continuer des ouvrages d'une telle utilité, a déclaré et déclare veut et entend que ledit S^r^ de l'Isle soit doresnavant son premier géographe pour servir en cette qualité aux honneurs, authoritez, prérogatives, franchises, libertés, gages et droits y appartenans, que sa Majesté a fixés à la Somme de douze cents livres par chacun an voulant que par les gardes de son trésor royal présens et avenir, chacun en l'année de son exercice, ledit S^r^ de l'Isle en soit payé sur ses Simples quittances suivant les états ou ordonnances qui en seront expédiés en vertu du présent brevet que Sa Majesté a pour asseurance de sa volonté signé de Sa main et fait contresigner par moy conseillier secretaire d'état de ses commandements et finances

. . . . . .

[Translation of the preceding.]

On the 24th of August, 1718.
Patent of first Geographer to the King for the Sr. De l'Isle.

This day, &c.—The King being in Paris, having authentic proofs of the profound erudition of the S. Guillaume De l'Isle of the Royal Academy of Science, in the great number of geographical works which he has executed for his use, and which have been received with general approbation by the public, His Majesty, by the advice, &c. wishing to attach him more particularly to his service, by a title of honour, which may procure him at the same time the means of continuing works of such usefulness, has declared and declares, wishes and enjoins, that the said Sieur De l'Isle be henceforward his first Geographer, to enjoy in that capacity the honours, authorities, prerogatives, franchises, liberties, wages, and rights thereto belonging, which his Majesty has fixed at the sum of twelve hundred livres per annum, wishing, that by the Keepers of his Royal Treasury, present and future, each in the year of his office, this allowance be paid to the said Sr. de l'Isle, upon his simple receipt, according to the reports ordonnances which shall be issued in virtue of the present patent, which his Majesty, in proof of his pleasure, has signed with his hand, and caused to be countersigned by me, Counsellor, Secretary of State of his commandements and finances.

[No. 34 of Inventory of Productions.]

Examined Copy, Letters Patent for the Installation of the Bishop of Nismes, 26 Feb. 1711.

Louis par la grace de Dieu Roy de France et de Navarre &c. . . . . ayant fait voir en nostre conseil les bulles et provisions apostoliques octroyées par nostre Saint Pere le Pape sur

nostre nomination, a nostre amé et feal Conseiller en nos Conseils M. Cæsar Jean Rousseau de la Parisiere Evesque de Nisme, &c. . . . . Nous avons admis le dit Sieur Evesque, &c. . . . . Car tel est nostre plaisir. Donné a Versailles le vingt sixieme Fevrier l'an de grace mil sept cens unze, et de nostre. Regne le soixante huitieme.

Signé, *Louis*—et plus bas—par le Roy *Colbert.*

[No. 35 of Inventory of Productions.]

EXAMINED EXTRACT from the Register of the Chapter of Cambray.

Feria 2, die vii Januarii 1715.

Hodie circa quintam matutinam obiit illustrissimus dominus Franciscus de Salignac de La Mothe Fenelon, Archiepiscopus et Dux Cameracensis, sacri Romani imperii Princeps, Comes Cameracensis, &c.

Requiescat in pace.

[No. 37 of Inventory of Productions.]

EXTRACTS from Book entitled 'Recueil de Cartes.'

2. Delisle's Maps without the title of 'Premier Geographe du Roi.'

1	Mappe-monde,	1700
4	L'Europe,	1700
77	Italie,	1700
89	L'Asie,	1700
93	L'Afrique,	1700
102	L'Amerique Merid.	1700
54	L'Allemagne,	1701
90	Turquie,	1701
5	Isles Britanniques,	1702
52	Provinces Unies,	1702
14	France,	1703
86	Hongrie,	1703
99	Mexique,	1703
40	Narbonne,	1704
48	Flanders,	1704
55	Rhin,	1704
57	Rhin,	1704
49	Brabant,	1705
106	Theatrum Historicum,	1705
107	Theatrum Historicum,	1705
78	Piemont,	1707
78	Piemont Merid.	1707
94	Egypte,	1707
110	Grecia Merid.	1707
41	Beziers,	1708
18	Beauvais,	1710

112	Italia Media,	1711
19	Picardie,	1712
20	Champagne,	1713
21	Champagne Merid.	1713
2	Hemisphere Septent.	1714
3	Hemisphere Merid.	1714
113	Sicilia,	1714
26	Normandie,	1716
85	Sicile,	1717
100	Louisiane,	June 1718

'Recueil de Cartes.'

2.—Delisle's Maps having the title of 'Premier Geographe du Roi.'

97	Amerique Septent.	1700
108	Africa,	1700
75	Espagne,	1701
46	Pays bas Catholiques,	1702
98	Canada,	1703
103	Perou,	1703
104	Paraguay,	1703
61	Suabe Merid.	1704
60	Suabe Septen.	1704
91	Chine,	1705
12	Moscovie,	1706
92	Tartarie,	1706
50	Hainaut,	1706
88	Grece,	1707
96	Barbarie,	1707
115	Toul,	1707
95	Congo,	1708
109	Grecia Septen.	1708
17	Senlis,	1709
31	Bourgogne,	1709
11	Danemarc,	1710
116	Delphinatus,	1710-11
15	Prevosté de Paris,	1711
47	Artois,	1711
38	Bearn,	1712
37	Bourdelois,	1714
105	Orbis Veterum,	1714
42	Provence,	1715
72	Suisse,	1715
111	Italia Antiqua,	1715
16	Paris,	1716
87	Hongrie,	1717
101	Antilles,	1717
22	Orleans,	1718
74	Pologne,	no date.

[No. 38 of Inventory of Productions.]

EXTRACTS from a Volume of Maps without Title.

Delisle's Maps—late impressions.

24*	Italie, . .	1700.	Printed after 1745.
13*	Allemagne, . .	1701.	—— 1745.
21	Espagne, . .	1701.	—— 1745.
23	Pays bas Catholiques,	1702.	—— 1745.
22*	Provinces Unies,	1702.	—— 1745.
7	Canada, . .	1703.	—— 1745.
16*	Hongrie, . .	1703.	—— 1745.
17	Pologne, . .	1703.	—— 1745.
31	Theatrum historicum,	1705.	—— 1745.
32	Theatrum historicum,	1705.	—— 1745.
33*	Grecia Merid. .	1707.	—— 1745.
30	La Grece, . .	1707.	—— 1745.
34	Grecia Septent. .	1708.	—— 1745.
36	Italia Antiqua, .	1715.	—— 1745.
14	Suisse, . .	1745.	—— 1745.
4	Malabar, . .	1723.	—— 1745.
19	France, . .	1731.	—— 1745.

[No. 36 of Inventory of Productions.]

Delisle's Maps—from the Archives of the Kingdom of France.

A.*	Pays bas Catholiques,	1702.	
B.*	Canada, . .	1703.	
C.	Canada, . . .	1703.	Printed after 1783.
D.	Pologne, . .	1703.	
E.*	Italia, . . .	1715.	
F.	Italia, . . .	1715.	
G.	Louisiane, .	June 1718.	
H.	Maine,	25 May 1719.	
I.	Amerique, .	1722.	

* Without the title of '*Premier Geographe du Roi.*'

[No. 43 of Inventory of Productions.]

TRANSLATION of M^elle^ Le Normand's Letter to the Countess of Stirling.

Paris, 18th October, 1837.

MY DEAR COUNTESS,

Receive my best thanks for your remembrance, and, pray, be persuaded that I feel happy in being able to contribute to the establishment of your husband's rights. I like to believe that the truth and authenticity of the important document cannot possibly be doubted. I have, for a long time past, mentioned your claims to personages of influence, who have told me,—'We know the affair of Lord Stirling, but he has a powerful party 'opposed to him.' Justice, however, is pure, and will not make her scales incline on the side of the strongest. The map of Canada which I have in my possession, and which you may lay before the Judges composing the Sovereign Court of Scotland, will not only serve to enlighten them, but also to convince them. As a French woman, I cannot know any thing of your English laws; but, truly, in *this* country, our Magistrates would say, 'These are, indeed, speaking proofs!' I cannot tell you, my dear Countess, that I have had this map of Canada since the Revolution of 1789. Certainly not! But, at that unfortunate period, every thing which belonged to Louis XVI. and Marie Antoinette's private cabinet was scattered abroad. This map, therefore, could not be found in the archives of the State, but became an object of distinct curiosity, separated from the royal cabinet. The person who, from feelings of respect, presented it to me, writes thus: 'I bought it in 1819 'as an object of curiosity, on account of the autographs upon it. 'The tradesman told me it was believed to have been taken from 'the interior of the cabinet of Louis XVI.' 'It might well have 'formed a part of a collection belonging to that unfortunate prince. 'So much the more so, as his grandfather wrote a marginal note 'upon it.' I am also told in this letter—'If the document can be 'useful to the family whom you know, and for whom you feel so 'much interested, I shall be glad, especially as I am under personal 'obligations to you, Mademoiselle Le Normand. The situation I 'occupy prevents me from openly declaring myself,' &c. &c. Being curious, beyond all power of expression, about whatever is connected with the arts, with politics, or with antiquity, it cannot appear surprising to those who know *me*, that I have in my possession valuable autographs. If my Lords, your Judges, raise any difficulties about this matter, as regards my name, or the friendship which has united us since 1812, show them first the works of your friend, and afterwards let them make inquiries in France. I have lived in the Rue de Tournon since 1795. I am a proprietor of

houses and lands, and a patented bookseller since 1810, established at Paris. In short, I could have told you, 'I have had this map 25 'years;' but I should have told a falsehood, and never did a falsehood defile my lips. Besides, if it had been in my possession, I should long since have given it up to you. I hope all your wishes will be accomplished. Send an express to me to fetch the map. I will deliver it to the person in the same envelope in which it was sent to me. Adieu my dear Countess. Once more, be happy, as well as my Lord and your children.

Your friend,

LE NORMAND.

[No. 44 of Inventory of Productions.]

TRANSLATION of M^elle^ Le Normand's Letter to the Earl of Stirling, dated *Paris, November* 8, 1837.

MY LORD,

I have received your letter by the hands of Mr Alexander, your second son. I have caused inquiries to be made, which I am still continuing, to ascertain who were the possessors of the map of Canada from the year 1789. But it is impossible, my dear Lord, to establish this fact. Our Revolution caused the overthrow and destruction of every thing that was in the Palace of our Kings. How many documents of value to families have been scattered abroad, sold, or torn in pieces! It was by a great and signal miracle that your map, covered with authentic autographs, fell into my hands. Monsieur Villenave observed to your Son, — 'The possessor of this map must be under the greatest obligations 'to Mademoiselle Le Normand, to have parted with so scarce a 'document in her favour.'

As for me, my dear Lord, I again affirm, that on the 11th of July of this year, the large envelope, which I preserve with its seals, contained, 1st, the map of Canada, &c.; 2d, a letter addressed to me, of which your son must have sent you a copy. I have already said, and repeated, that it is not surprising the possessor gave up the map to me. I have spoken to persons holding high stations in society of your rights, of the justness of your claims. On that account, it was considered making me a really acceptable present, *in grateful return for my advice*, when homage was made to me of such important writings. If your just cause were mine, I would say, in presence of the Supreme (Sovereign) Court of Scotland, — 'Either the map I have the honour to submit for your enlightened 'judgment is not a true original, or it is one. In the first case, it 'belongs to you gentlemen to furnish the proof; in the second, 'good and valid justice ought to be administered; prejudices ought 'to be dismissed from this cause. Were it otherwise, and you 'persisted in requiring me to declare who have been the possessors

'of the map from the year 1789, it would then be necessary for 'me to invoke the shade of the unfortunate Charles the First. It 'would tell you, my Lords, I granted the Charter of 1639 in favour 'of the Earls of Stirling. My successors ought to know, that if 'good faith be banished from society, it ought still to dwell in the 'breast of Kings! King Charles the Second granted a desert to 'William Penn in America. He transported thither men of pure 'lives and vigorous arms. Their descendants enjoy at present the 'fruit of the labours of their founder. You cannot do less in favour 'of the Earl of Stirling, whose ancestor was the creator, in a great 'measure, of your possessions in Canada. The demand that I 'should retrace [go back, re-ascend] to the year 1789 is indiscreet. 'Judge whether the attestations are genuine, and then pronounce 'your decision. Several Advocates of the Parisian Bar have de-'clared that the question was not, whence came the precious docu-'ment, but whether it was or was not valid? Therein lies all the 'pith of the inquiry. Lord Stirling presents it. He relies on its 'contents for support. All vain formalities are evasions of the 'truth.'

Your Scotch Judges will no doubt be sufficiently enlightened, without admitting the ambiguous reasons of your adversaries! Appeal to public opinion. *Strike down the hydra*, and prove that you would be unworthy of the title of a Peer of Scotland if you overshadowed [deviated from] the truth.

I speak to you according to the dictation of my thoughts, but truly there are so many resources in what you demand, that I would hope in the present reign prompt and 'eclatante' reparation will be granted to you. Otherwise I should say, — 'What, then, 'surely Albion, noble Albion, cannot shew herself less generous 'than was France towards the United States'!!!!!!!

Be the interpreter of my sentiments to the dear Countess and her children. The map is delivered by me to your son under a sealed cover, and he has given me your receipt.

I have the honour to be,
My Lord,
Your very humble servant,
LE NORMAND.

[No. 46 of Inventory of Productions.]

COPY LETTER, M^elle^ Le Normand.

Paris, 19 *Avril* 1838.

MILORD,

Je vous confirme ma précédente. Seulement j'ajoute que le 12 courant, un Anglais s'est présenté chez moi, accompagné d'un Interprète Français. Il m'a dit: 'la carte produite par vous 'à Lord Stirling, et dont il prétend s'étoyer est fausse: c'est à dire,

'les autographes. On vous a démandé à la Police, d'oú cette pièce 'provenait—Nous vous le demandons encore. *On ferait même des 'sacrifices en argent pour connaître sa veritable origine.* Vous avez 'une lettre d'envoi de la dite Carte. Veuillez vous la montrer?' 'Sur la proposition d'argent j'ai repondre — 'Ce n'est pas à moi 'qu'il faut faire des offres, mais bien à Lord Stirling, qui depuis 'long temps réclame son dû.' — 'Il en faudrait trop,' à-t-on dit: 'l'intention serait d'ancantir cette affair; *de laver son linge en 'famille,*' &c. &c. telle fut l'expression PROPRE!!* 'Mais que 'deviendrait alors Lord Stirling et sa famille?' '*Ou pourrait faire 'quelques sacrifices pour les empêcher de crier*' (propre expression) 'Du reste, cette Carte est oraie, mais les autographes, Non!!! 'Je ne s'agit plus du jugement de la Cour Souveraine d'Ecosse. 'C'est terminé, mais bien de l'origine de la Carte: Non pour faire 'de la peine à Lord Stirling. On tient seulement à savoir d'ou elle 'vient.' Sur mon refus de montrer la lettre d'envoi, l'Interpréte Français dit. 'Cet Anglais n'est point chargé de vous faire des 'offres. C'est *erreur* dans la traduction des deux langues.' Je 'n'ai pu en émpêcher de dire: C'EST TROP FORT!' Ils ont été chez M. Villenave, à ce qu'il parait. Bref, ce Monsieur est convaincu de l'authenticité de l'autographe de Fléchier, et des quelques lignes de Louis XV. Je vous avais bien dit, que vous auriez dû avoir la consultation du Barreau Français; que toutes les pièces soient reconnues par Experts; et jugement rendu à cet effet: Vous Juges Ecossais ne pourraient alter contre une semblable évidence. Comment voulez-vous qu'en France on puisse juger sur des fac-simile?† Je vous dit que la prévention et contre vous; qu'on croit que le jugement est déjà porté; qu'il faut faire échover cette interminable procédure. Il s'agit maintenant pour vous d'exiger que la carte revêtue de ces autographes soit renvoyée en France, pour étre reconnue par ceux qui l'ont rire, et attestée par ceux qui verifieront les autographes. D'après, les avocats feront leurs observations; le Tribunal rendra son jugement. Il parait que c'est par l'entremise de l'ambassadeur Anglais à Paris, que cette enquête verbale se fait (comment vos Juges Ecossais pourront — ils s'en rapporter à des on dits!)

Envoyez promptement, ou venez vous—même, si faire peut, pour suivre une Enquête légale. C'est le moment d'agir. Sans cela, mon cher Milord, Je craindrais le terrible coup de massue. On dit que vos enfans sont venu à Paris en 1836 sous des noms supposés; vous même aussi. J'ai dit 'Si Milord était venu à Paris, je 'l'aurais vu. Ce n'est que fin d'Octobre ou les premiere jours de 'Novembre, que j'ai reçu la visite de Son Fils Charles. Il n'est 'resté que quelques jours dans la capitale. Je lui ai remis la Carte

* *Note,* by *this* word M^elle. draws attention to the *dirtiness* or *indelicacy* of the expressions.—S.

† From this remark, *it is quite clear the men* HAD impressions to shew M^alle. and M. Villenave of the Edinburgh *fac simile;* at least of the autographs.—S.

'du Canada, seigneusement enveloppée; contre un reçu de Lord 'Stirling.' On vous travaille en tous sens fortune, reputation, &c. &c. Il s'agit de parler, et d'employer tous vos moyens. Sans cela vous serez maltraité par les arbitres de votre sort. Consultez vos Avocats. J'ai vu que votre route était semée d'epines. J'ai en raison. Si on ne vous accordait pas la demande du renvoi de la Carte en France, protestez sur le jugement a venir. Il me semble que l'on ne saurait dire un procès est terminé, s'il ne c'est pas. Je souhaite que tous ceux que se dirent vos amis, vous restent aussi sincères que moi. Je ne connais que la vérité. Si cette Carte est bonne, pourquoi en douter? S'ils jugent le contraire, à quoi sert tant d'investigations! C'est une enquête légale devant des Magistrats (torn) qu'il faut faire entendre sur le merite des autographs —non des conversations.

Ces Messieurs devaient revenir. Je ne les ai pas vus — Ils n'aimaient pas ma franchise et l'intérêt, que je portais à votre famille. Quoique dépouillé de vos titres par le jugement de Lord Cockburn, *selon eux*, vous rien êtes pas moins, à mes yeux, un parfait honnête homme; et je fais des vœux bien sincères pour que le Gouvernement Anglais vous traite avec bienveillance et que la Chambre des Paris, s'il y (torn) vous dé dommage de vos longs malheurs et fasse droit à vos réclamations! — Hommage à la Comtesse — Je vous salve.

L. N.

This is a true copy of the original letter of Mademoiselle Le Normand, received this day, 23d of April 1838.

STIRLING.

[Translation of the Preceding.]

Paris, 19*th April* 1838.

MY LORD,

I beg to confirm what I stated in my preceding Letter. I shall only add that on the 12th current, an Englishman presented himself at my House, accompanied by an Interpreter. He said to me: "The map procured by you for Lord Stirling, and by means of which he pretends to bolster up his claim, is forged; or rather the Autographs. You have been asked by the Police Authorities whence came that document. We again put the question to you. *We are even willing to pay a sum of money for the discovery of its true origin.* You have a letter which accompanied the map—be pleased to shew it to us.' The proposal as to the money was instantly met by this answer—'It is really not to me that offers should be made, but to Lord Stirling, who has so long been demanding what is due to him!' 'It would require too large a sum!' was the reply; 'We are anxious to put an end to this affair; to effect a quiet settlement of our differences!' ('laver son

linge en famille !') Such was the *very* expression. 'But what would then become of Lord Stirling and his family?' '*Some sacrifice might be made to keep them quiet ! !* (the very expression)—after all this map is genuine, but the Autographs—No ! ! ! The question is no longer as to the decision of the Supreme Court of Scotland—that is at an end—but the question is as to the origin of the map; not with any intention of giving pain to Lord Stirling. We are merely anxious to ascertain whence it comes.' On my refusal to shew the accompanying letter, the french interpreter said, This Englishman is not instructed to make you any offers. it is an error in the Translation.' I could not avoid exclaiming: 'THAT IS TOO MUCH !' ('C'EST TROP FORT !') It appears they have been at Mr Villenave's. In short, that Gentleman is convinced of the authenticity of the Autograph of Flechier, and of the few lines of Louis the Fifteenth's. I told you, that you should have consulted the French Bar; that you should have had all the documents approved by men of skill (*Experts*;) and Judgment given to that effect. Your Scottish Judges could not proceed in the face of such evidence.—How is it possible that in France any Judgement can be formed on fac similes. I tell you—that the prejudice is against you; that the belief is that judgement has already gone forth; that this interminable process must be stranded. The point for you now is to demand that the map, on which the Autographs appear, be sent back to France, in order that it may be recognized by those who have seen it, and attested by those who will verify the autographs. Upon this, counsel will make their observations, the Court will deliver its Judgement. It appears that it is through the medium of the English Ambassador at Paris that this verbal enquiry is going on (how can your Scotch Judges be guided by on dits?) Send some one speedily; or, if possible, come in person, to follow up a legal enquiry. Now is the moment for action. Without that, my dear Lord, I should much fear the terrific Club stroke. It is said that your children and you yourself came to Paris in 1836, under assumed names. My answer was, 'Had my Lord come to Paris, I should have seen him. It was 'not till the end of October, or about the first of November, that I 'received a visit from his son Charles. He remained but a few 'days in the Capital. I gave him the map of Canada, carefully 'wrapped up—on receiving Lord Stirling's receipt.' You are assailed on every side—fortune, reputation, &c. &c. Now is the time to speak out and to summon all your resources, otherwise you will be rudely handled by the arbiters of your destiny. Consult your Counsel—I saw that your path was strewed with thorns, and I was right. If they refuse your demand of sending back the map to France, protest against any future decision. It appears to me that a process cannot be considered as terminated, when it is not so. I hope all those who call themselves your friends, may remain as sincere as I am. I know nothing but the truth. If this map is genuine, why doubt it? If they are of a contrary opinion, to

what purpose so much investigation? It is a legal enquiry before magistrates (torn) that must be heard on the merits of the autographs—not conversations. These gentlemen were to have returned. I have not seen them. They did not relish my frankness, and the interest which I bore your family. Altho' *according to them*, stript of your titles, by the judgement of Lord Cockburn, —you are not the less, in my eyes, a perfectly honest man; and I sincerely hope the English Government may treat you with kind consideration; and that the House of Lords, if there (torn) may indemnify you for your protracted misfortunes, and do justice to your demands! My duty to the Countess.

'Your's,

'L. M.'

[No. 47 of Inventory of Productions.]

A Letter addressed to Madame La Comtesse de Stirling, and bearing to be signed Le Normand, and dated 16 Juin 1838.

MILORD,

Comment se fait il! que d'après tout l'intérêt que je vous ai porté et vous porte encore vous me négligiez totalement. J'avais conçu le dessein de me rendre à Londres, au moment de la réunion brillante du Couronnement, *et pour servir vos réclamations.* Nul* lettre de vous, en réponse de ma dernière. Je vous y donnais des renseignemens précieux. Votre silence me fait peine. Seriez vous indisposé ou la chère Comtesse, les enfans. Veuillez lever mes doutes. Je vous préviens de vous garantir des fausses promesses. On poura en France vous faire entrevoir la possibilité de traiter, même vous fournir des fonds. C'est un piège. Ne Signez nul écrit que vous ne voyez entre vos mains une réalité. On a travaillé en tout sens l'opinion à votre sujet. Avis au Lecteur. Où en êtes vous de votre procés. Je devais être appelée le 18 mai. Votre dernière lettre me demandait le signalement des envoyé.† Je vous l'ai calqué affirmativement. Avez vous reçu cette lettre, elle était tout simplement adressée a la Comtesse, à Edimbourg. un simple pain à cacheter la refermait: Je l'avais fait ainsi pour que les Curieux ne voie‡ aucun mistère. Je serais bien flattée d'apprendre que vos efforts soient Couronnés, car après tant de traverses, il serait bien temps que la raison et le bon droit soit§ écoutés. Veuillez me répondre de suite, me tenir au courant et Comptez comme par le passe sur mon zéle mon attachement, et le plaisir que j'aurais d'apprendre que vous soyez heureux, ainsi que l'aimable famille et les Chers enfans. en attendant de vos précieuses nouvelles, car depuis plus d'un mois j'en suis privée, Veuillez me croire Milord avec la Considération la plus distingueé,

Votre très humble servante,

LE NORMAND.

16th Juin, 1838.

P.S. un Souvenir d'amitié à toute la famille.

* For nulle. † For envoyés. ‡ For voient. § For soient.

[Translation of the Preceding.]

My Lord,

How comes it that after all the interest I have borne and still bear towards you, you should totally neglect me! I had formed the design of going to London, at the period of the brilliant assemblage for the Coronation *and to advance your claims.* No letter from you in answer to my last; In it I gave you information—your silence grieves me—can it be that you or the dear Countess or children are unwell: Do pray remove my doubts. I forewarn you to be upon your guard against false promises. In France they may throw out the possibility of entering into engagements with you and even of providing you with funds. This is a snare; Sign no paper till you hold something tangible. They have worked up the public mind in every possible way against you. Notice to the Reader. What length have you got with your process. I was to have been summoned the 18th of May. In your last letter you ask me the description of the persons sent—I have drawn it faithfully for you; Did you receive that letter—it was just addressed to the Countess at Edinburgh—and was only closed with a wafer—I did so that the inquisitive might not imagine that it contained any mystery. I should be highly gratified to learn that success has crowned your efforts—for after so many disappointments it would be high time that reason and just right should be heard—pray answer me immediately and let me know how things get on and rely as hitherto upon my zeal, attachment and the pleasure it would afford me to learn that you are happy as well your amiable family and the dear children. Awaiting news from you so precious to me and of which I have been deprived for more than a month, I beg you to believe me with the most distinguished consideration—Your very humble servt.

Le Normand.

16 June 1838.—

P.S. My Friendly regards to all the family.

[No 48 of Inventory of Productions.]

Letter docqueted Paris, 13th Augt. 1838, M^lle^ Le Normand.
R. 17th Do.

Milord,

J'avais prévu le retard de votre affaire, et ne pouvant l' accélérer, j'ai préféré ne point troubler votre quiétude, ne paralyser vos moyens. Ils sont immenses: Vos ennemis furieux. Il en est qui s'en prennent à moi même, de vous avoir remis la carte du Canada. Je me trouve heureuse, si par ma bonne volonté *ains*

mon influence dans la société, j'ai pu concourir à établir, soutenir vos droits, et amener à fin cet interminable procès. Du courage donc au présent en attendant le triomphe de l'avenir ! *le décès de l'un de vos juges, semblerait vous être nuisible.* Cependant il en est aujourd'hui de mieux intentionnés, ne faut point s'en rapporter à des espérances trompeuses, mais surveiller ! *Car de nouvelles machinations sembleraient se préparer ! ! ! !* Je suis visité par des Anglais qui sont hostiles a vos réclamations. J'en ai convaincu plusieurs par la force de mon raisonnement. Alors ils finissent par s'écrier : Oh ! oh ! Ce qui nous paraissait jusqui-ci une fable, finirait donc par devenir une réalité. Yes, yes, ce que vous dites s'accomplira ! ! ! ! Mon cher Milord, j'en accepte l'augure pour vous et votre interissante famille. J'ai encore fait faire des recherches immenses. Sur les anciens possesseurs de la carte du Canada, je n'ai rien de *positif.* Mais en fait ; les Juris-consultes les plus éclairés de la capitale sont d'accord ; que si elle est soumise à l'examen de juges eclairés ils prononçeront sur sa validité. Ou elle est vraie dans son contenu, ou elle offre des divergences. C'est à la justice à prouvér, et non pas à vous de dire ; à telle ' époque elle était dans le cabinet de Louis *XVI.* Roi de France.' depuis 1789, elle fut vendue avec une infinité d'autres papiers, un Bouquiniste la revendit à un amateur, cet amateur en a fait hommage à un ministre curieux d'autographes, &c. &c. en fait ; cette carte est nulle pour la Politique Française. Nos droits sur le Canada ne sont point réservés. Ce serait donc par l'effet du plus grand des hazards, si on retrouvait trace d'une correspondance. Car en définitif ; pour être parvenue à *Louis* quinze, un memoire à dû la précéder ; mais où est-il ? Notre Revolution a tout boulversé, tout confondu ! et selon le dire des hommes les plus eclairés du Barreau ; Il est trop rigoureux d'exiger de vous, le *certificat d'origine de la veille* Carte du Canada,* Ainsi donc, faites votre projet de mes réflexions, et tenez vous en garde contre d'astucieux argumens. Pour M *T.* il eut voulu *seul* négocier ! ! ! la *confiance doit être discréte,* et non plénière. Gardez vous de choquer ! C'est *Janus, mais à ménager ! ! !* l'argent sera bien rare. Quelques emprunts partiels. Mais M, *T.* a paralysé. V (torn) Fils doivent employer le langage de la persuasion pour convaincre. Mais vos ennemis disent effrontément ; *que votre dernier titre est votre ouvrage,* &c. Que vous êtes venu à Paris. J'ai dit *non !* d'ailleurs, *je l'aurais vu !* en vérité, cette cabale est infernale, on e (torn) dépité du Zèle que j'ai mis a vous servir. Vous arriverez au mois de Novembre avec gêne. un peu d'argent sera donné. faites en sorte ; que l'on ne recule pas encore ; car un retard serait sérieux. tenez moi au courant. Assurez la Comtesse de mon attachement. Mes complimens à vos Fils. Croyez moi, Milord, avec dévouement, votre devouée,

L. N.

* For vieille.

[Translation of the preceding.]

My Lord,

I had foreseen the delay in your business, and not being able to accelerate its progress, I thought it better not to disturb your peace of mind, or paralyze your resources. They are immense. Your enemies frantic. Some of them even blame me for having given you the map of Canada. I feel happy if, by my anxious wish to serve you, and my influence in society, I have been able to contribute to establish and support your claims, and bring to a close this interminable process. Courage, then, for the present, in expectation of future triumph. *The death of one of your Judges*, would appear to be prejudicial to you; there are, however, at present some of them better inclined towards you. Don't place reliance upon hopes that may prove delusive; but be upon the watch! *for new machinations would appear to be in preparation!!!!* 'I am visited by Englishmen who are hostile to your claims. I have convinced several by the force of my arguments. They then end by exclaiming Oh! Oh! what hitherto appeared a fable, would then turn out to be a reality; yes, yes, what you say will be accomplished???' My Dear Lord, I accept the omen for you and your interesting family. I have again caused the most searching inquiries to be made. As to the former possessors of the map of Canada, I know nothing positive; but the fact is, that the most enlightened lawyers of the capital agree, that, if it be submitted to the examination of enlightened judges, they will pronounce in favour of its validity. Either it is true in its contents, or it affords room for difference of opinion. It is the business of the Court, not yours, to say at what period it was in the closet of Louis 16th King of France. Subsequent to the year 1789 it was sold with a number of other papers. A dealer in old books resold it to an Amateur; this Amateur presented it to a Minister of State who was curious in Autographs, &c. &c.; the fact is, that this map is worthless as far as French Politics go. We have reserved no rights upon Canada. It would therefore be the effect of the greatest chance if they recovered any trace of a correspondence; doubtless, before reaching Louis the Fifteenth a memorial must have preceded it; but where is it? Our revolution has upset and thrown every thing into confusion! And according to the opinion of the most enlightened of the Bar, it is too rigorous to exact from you the *certificate of the origin of the old Map of Canada.* Form therefore your plans from my reflections, and be on your guard against crafty arguments. As to M. T. he could have wished to have been *sole* negotiator!!! *Confidence ought to be discreet* and not *unlimited;* Beware of giving offence; he is a *Janus but to be carefully treated!!!* Money will be rather scarce. Some partial loans, but M. T. has paralyzed. Your sons ought to employ the language of persuasion to convince. But your enemies have the

effrontery to say,—*that your last title is your own handywork*, &c. —that you have returned to Paris—my answer has been *No!* for *I should have seen him.* This Cabal is really infernal, they are full of spite at the zeal I have shewn to serve you. You will be much pinched to reach the month of November. A little money will be given. Contrive so that there may be no farther delay, for delay would be productive of the most serious consequences— Assure the Countess of my attachment: my compliments to your Sons. Believe me my Lord with devotedness your devoted.

L. N.

[No 45 of Inventory of Productions.]

Translated Extracts from Mademoiselle Le Normand's Letter of 26th September, 1838, to the Earl of Stirling.

'I can no longer understand the difficulties they oppose to you 'regarding the veracity of your great map. How can we re-ascend 'to the origin of an autograph document which has perhaps passed 'through various hands! Either it is a legal title, or it is not. 'Your Judges must decide the question; and it is according to 'the opinion of well-informed people, doing you a remarkable 'injury, as well as myself, to pretend a possible falsification. I 'delivered it up to you in the state in which it was deposited at 'my house. I shall feel happy if this document serve to establish 'your rights. The pleasure of being useful has, at all periods, 'been the honourable mission I have constantly fulfilled. If your 'Judges knew me, they would also know, that whatever partakes 'of intrigue is foreign to my character,' &c.

'I return to my argument. Either the proof is good, or it is a 'forgery. In the first case, you must gain your suit. In the 'second hypothesis, *demand an inquiry in France.* Let the map 'of Canada be submitted to a jury of artists ("*des Experts.*") 'Let it be deposited in a public place, where every one shall be 'able to judge of it. Let the newspapers repeat an appeal to 'impartial justice. I would oppose myself to a final judgment of 'my equals if I saw their non-conviction of the signatures attached 'to it in France. I would say, "Strike the forger, or declare the 'merit of the document produced on the day of pleading." I 'conceive all your embarrassments—others will arise. The will 'of God be done! I am willing to believe that the term of your 'trials is at hand,' &c.

[No. 40 of Inventory of Productions.]

Translated Extracts from M^elle^ Le Normand's Letter of 17th October, 1838, to the Earl of Stirling.

'How can the map be acknowledged genuine here while we 'have it not in view! If it were in Paris, indeed, we might appeal,

'and good luck would perhaps enable us to find out some former 'proprietor of it, but how can any one say, "I have seen," without 'seeing! No, assuredly. What, therefore, you had better do, is 'to give powers to your son, and a copy of the map, failing the 'original, causing it to be attested that it is in every respect like 'it. He would then present himself to some public man, deposit 'it, make an appeal to the lovers of books and amateurs of auto-'graphs. By that means the truth might be established. If the 'Edinburgh Judges doubt of the validity of the document pro-'duced to the point of rejecting it, then demand an investigation 'in France. Let one of our Judges come over before pronouncing 'judgment. The map will then be judged of and appreciated. 'Believe me, my Lord, in so serious an affair, you must not abuse 'yourself. Your traducers are numerous. You cannot imagine 'what steps they have ordered to be taken. This very day I learn 'that they have hazarded insidious speeches respecting me. They 'positively maintain that the map must be your work, or that of 'your sons. It is, therefore, *great eclat* that is required. You 'must make the newspapers speak out,' &c.

'Don't let them take you by surprise. They are plotting again. 'Strike great blows. All the calumnious discourse they have 'indulged in respecting you is infamous. It is reflected back 'upon me, who feel interested about you. This is carried to such a 'pitch, that already I have felt inclined to repair to England, and 'thence to Scotland, to unmask the traitors? Now, it would 'inspire them with no confidence, were a single man to say, "I 'have seen that map." It is necessary, either that they believe in 'the veracity of my declaration, or that a public inquiry be made.

'Your *fac similes are inexact*, at least those I saw. Moreover, 'how can an opinion be formed of documents on separate pieces 'of paper! My Lord, I tell you, in the sincerity of my heart, 'out of friendship for your excellent wife and your children, you 'should carefully inquire what is the opinion of your Judges,' &c.

'Either send your son, or, *according to the appearance of things*, 'insist upon the map being sent by a Judge. *The delay of a month* 'will be more desirable to obtain a triumph, and the re-establish-'ment of an attacked reputation!

'If I were not known, I should lose, by serving you, tranquillity, 'hope, and even health. Answer me immediately what you 'decide upon doing.'

[No. 41 of Inventory of Productions.]

Translation of a Letter from Mademoiselle Le Normand, dated from Paris 26th November, 1838, addressed to the Earl of Stirling.

My Lord,

I have deferred answering you, because I have again caused inquiries to be made respecting the origin of the map of

Canada. I have not been able to learn any thing, unless it be that well informed persons agree in saying, '*If it be found genuine, it ought to be admitted; if otherwise, it ought to be rejected!*' for it would be impossible to discover the former possessors of this map. If this affair is the cause of torment to you, which, I am willing to believe, may be put an end to, *it is not the less so to myself, who have no desire but to be useful to you.* Every day I learn something new. Either your enemies must be very powerful or very cowardly! I who have only candour (or good faith) to guide me; who would not for a great deal utter a falsehood; who might have said, '*I have possessed this map since* 1789,' but who would not say so. The truth, nothing but the truth. It was sent to me, and I also gave it up to you. Your Englishman* and his interpreter have been circulating all sorts of false reports. *They have been inquiring whether my property belongs to me; whether I have any debts; whether I have paid for my Estate! They have written to the Conservators* ('*Conservateurs.*') *They have had the audacity to inquire in my own Province whether I have houses there, and whether they have been paid for!* In short, there are no kinds of vexations which these men have not made me experience, on account of the interest I have constantly felt for your family. The purest disinterestedness has governed all my actions. I have seized every occasion to do what might be agreeable to you; but I cannot support the idea that my reputation suffers on that account. I prefer it pure and untouched to all the fortunes that could be offered to me. It is infamous on the part of this English Agent to endeavour to defame a woman who is more deserving than he—*Money, money,* Morbleu! that must have made him undertake his journey to Paris. Not content with having denounced me to the Police, to his Ambassador, to all who were willing to listen to him, HE HAD THE BASENESS TO WISH TO BRIBE ME! Superior to such offers, my indignation could not be restrained. It was then that he began to cry me down. Your lawsuit, according to him, *is a tissue of lies; those who are faithful to you are in your pay!* How shall I express it? This has been repeated in high, in the middling class, and in the lowest society. They even went to interrogate the wife of my gardener! Up to this period I had always believed the Scotch a brave people. I believe them so still; but the envoy of your enemies deserves that the severest correction be applied to him. It is not, therefore, the mere babbling of wicked people or of bad English women —no—*it is the man accredited by your Government,* who comes here to overwhelm an unoffending woman, whose only fault is her feeling for your estimable family, and seeking to the utmost of her power the means of restoring you all to hope and happiness!

* Mademoiselle, like most foreigners, confounds in one mass English, Irish, and Scotch. She *means,* however, no person but Mr Rodk. Mackenzie, whom she alludes to as "Votre Anglais."

The tenor of your correspondence is known. It is dreadful thus to violate the secrets of your letters. It appears that one of your letters which was addressed to me was subjected to inspection.

My Lord, I never could put up with a gross offence, and your Scotchman shall be unmasked. If he be ill-disposed towards you, that is no reason why he should attack me. I am neutral in your suit. I *presented* to you,—I did not *sell* the *map of Canada.* There are laws, and I shall know how in proper time and place to confound the wicked; but really this Scotchman has done his utmost to ruin you in public opinion, and me also. The cabal is regularly appointed and paid. It is for you to display all your courage in the maintenance of your rights. This map of Canada requires no *certificate of birth*, no *certificate of its origin.* Either it is genuine or it is not. To re-ascend to its source after our Revolutions is to attempt what is impossible. This affair is much discussed—matters of the greatest consequence cannot fail to be very soon revealed to you. I am very sorry to hear of the illness in your family. We must hope for the best. Keep me informed of what is going on. I greet you cordially, as well as the dear Countess. Better health to you all! Let us hope that the equity of your Judges will repair serious mistakes, and put a term to your misfortunes. It is the sincere wish of your devoted.

LE NORMAND.

[No. 49 of Inventory of Productions.]

Letter docqueted Paris, 30 November, 1838, M^elle^ Le Normand, R. 5th December.

Paris, 30 *Novembre*, 1838.

MILORD,

Je viens de reçevoir des renseignemens sur le signataire du certificat, *si toutefois on l'admet ;* et que vous croyez qu'il puisse vous servir. Car j'ignore absoluement qui me l'envoie, et vos ennemis emploie* tous leurs moyens pour vous faire perdre votre procès. Je ne conçois pas que vos juges montre† de telles préventions, et que la police de votre tribunal soit aussi dérisoire. en vérité vos antagonistes ont beau jeu ; si je voyais que mes juges soient aussi mal disposés, je ne voudrais pas être juger‡ et je les recuserais, ou demanderais une enquête en France. Je vous conseillerais si toutefois vous le jugez utile de renvoyer de suite le certificat pour que la signature *Parmentier* soit légalisée par le ministre de la guerre. Voici les renseignemens que j'ai reçus.

' Après avoir été blessé à l'armée du nord, Monsieur Parmentier ' fut nommé en vendemiaire an 6 Octobre 1797, secrétaire de ' placé à Verdun, et conservat cet emploi jusqu'en 1812 ; Son

* For emploient, † For montrent. ‡ For jugée.

' dossier est déposé bureau des lois et archives anciens états majors ' des places de guerre (ordre alphabétique,) demander la légalisa- ' tion au ministère de la guerre. Bureau de la justice militaire, ' en donnat les indications ci dessus.'

Si cet* observation vous et est utile ; si ce certificat est reconnu parfait ; alors votre cause prendrait un nouvel aspect. Vous ne pouvez trop faire connaitre les menées de l'agent ; car il vous a decrié, d'une manière infame, et me fait regarder comme complice d'une carte supposée.

Votre fils aura bien de la peine à supporter de nouvelles crises. Dieu seul peut lui rendre la vie, les hommes de l'art n'esperè† rien.

Je plains les douleurs de la Comtesse. elle se doit ménager pour sa famille et ces‡ amis.

Poste par poste, tenez moi au courant sur ce que vous décidez. Je vous salue.

LE NORMAND.

[Translation of the Preceding.]

Paris, 30th November, 1838.

MY LORD,

I have just received information concerning the signer of the Certificate, *if indeed they admit it*, and you think it may be of service to you. For I am completely in the dark as to who sent it me, and your enemies are using every exertion to make you lose your suit. I cannot conceive how your Judges shew such prejudices and how the constitution of your Court should be such a mockery. Your antagonists have forsooth a capital game of it— Were I to see Judges so ill disposed towards me I would not be tried by them and would challenge their competency, or demand an enquiry in France. I would advise you, if indeed you think it of advantage, to send back the certificate immediately, in order that the signature of Parmentier may be verified by the Minister at War. The following is the information I have received :— ' After having been wounded in the army of the North, Monsieur ' Parmentier was appointed in Vendemiaire, in the year six ' (October 1797) Governor's Secretary at Verdun, and held that ' appointment till 1812. The act of his nomination is deposited at ' the office of the Laws and Archives of the Old Staff of Fortified ' Towns (in alphabetical order.) Ask for the verification of it at ' the War Office Department of Military Claims ; giving the above ' directions.' Should this observation prove useful to you, should this certificate be acknowledged authentic, then your cause would assume a new aspect. You cannot give sufficient publicity to the intrigues of the agent ; for he has run you down in a most

* For cette. † For espèrent. ‡ For ses.

infamous manner, and causes me to be looked upon as the accomplice of a forged map.

It will be difficult for your son to stand a new crisis. God alone can restore his life. The professional men are without hope. I feel for the sorrows of the Countess; she must take care of herself for the sake of her family and friends. By return of post let me know your decision.

Your's,

LE NORMAND.

[No. 50 of Inventory of Productions.]

Letter docqueted 1839, Paris, Jan^{y}. 8th M^{elle} Le Normand to Lady S.—R. 9th Feb^{y}.

Paris ce 8 *Janvier* 1839.

MILORD,

Je vous remercie de vos bons souhaits, et fais des voeux pour vous et l'aimable famille. puissiez vous tous être heureux, tels sont les voeux de mon coeur. Je remercie la bonne Comtesse de son souvenir; puisse cette excellente épouse si tendre mère, voir le rétablissement progressif de son cher fils et finer enfin par revoir cette France, où la paix et bonheur sembleraient lui être promis. Vous reçeverez par la poste une lettre de moi que vous pouvez montrer au tribunal. quand à vos questions, votre fils vous les répondra de vive voix. Seulement on a découvert l' homme du quai, on veut le faire partir pour l' Eccosse; il dèclare que voilà 18 mois il a vendu une carte du Canada à un Anglais qui plusieurs fois est venu chez lui, on lui a dit; le reconnaitrez vous, *je le crois*, l' agent est descendu Hotel Meurice. Je saurai autre chose et vous previendrai. Mes amitiés sincères à tous.

Salut.

[Translation of the Preceding.]

Paris, 8th January 1839.

MY LORD,

I am obliged by your kind wishes. May every good attend you and your amiable family. That you may all be happy, is the wish of my heart. I thank the good Countess for her kind remembrance. May that excellent wife and tender mother witness the progressive recovery of her dear son, and at length visit that France, where peace and happiness seem to be promised her. You will receive by Post, a letter from me, which you may shew to the Court. As to your questions, your son will answer them *viva voce*. I shall only mention that they have found out the man on the Quay. They wish to make him go to Scotland. He says that 18 months ago he sold a map of Canada to an Englishman,

who repeatedly called on him ; when asked if he could recognize him, '*I think so.*' The agent has put up at Meurice's Hotel. I shall find out more and report to you. My love to all. Your's,

[No. 51 of Inventory of Productions.]

Letter addressed to Madame Madame la Comtesse de Stirling.

Paris ce 9 *Janvier* 1839.

MILORD,

Je me trouvais indisposée lors de l' arrivée de Monsieur votre Fils dans notre Capitale, ce qui m' a privée de beaucoup de détails sur votre interminable procès. J' ai appris cependant que vos adversaires ont osé éléver des doutes sur la véracité d' une dette aussi sacrée, que légitime, *et que remonte* à 1812 ; sans compter ; que j' ai mis nombre de fois la bourse de mes amis à contribution, pour vous servir dans de *présens besoins ;* avoir obligé des amis malheureux serait donc un crime en Ecosse ? dans ce pays si riche en Souvenirs ! ! ! ! Je vous ai dit : "*Arrêtez unique-*'*ment mon compte, et vous me solderez à fur et à mesure de vos* '*Entrée.*' * Cela remonte de plus haut. Vous m' avez envoyé votre ouvrage comme libraire et pouvant vous en distribuer beaucoup ! J' ai offert ce même ouvrage à des personnes de distinction qui viennent chez moi, j' ai parlé en votre faveur, l' amitié que je porte à M^de^ votre épouse, à votre nombreuse famille m' a rendue éloquente ! une vielle † carte du Canada revêtue d' autographes de *Fenelon, Flechier, Louis XV.* &c. fut remise chez moi le 11. juillet 1837, elle était renfermée Hermétiquement dans un fort papier de couleur chocolat avec trois cachets, *une lettre y était jointe.* Je vous en ai envoyé antérieurement la copie. Je pouvais dire : *Je possédais cette carte, comme tant d' autres autographes depuis la Révolution de* 1789 ; amie de la vérité, ne Connaissant que la vérité, j' ai déclaré : " Voyez et Jugez-la ! " Ce qui est odieux, c' est *de pouvois supposer* que M^elle^. Le Normand, se soit rendue coupable d' attacher un prix à un service obligeant ! Vous connaissez ma délicatesse, *J' aurais horreur de moi même,* Si la Cupidité m' avait stimulée au point *d' exiger un salaire élevé.*

Declarez donc hardiment devant vos Juges : que vous me depuis 27 ans de grosses sommes, *avec les intérêts cumulés.* Si Je comptais de clerc à Mâitre, 500,000 f. me seraient bien dûs. Dieu seul, Milord, peut éclairer vos Juges ! Dieu seul peut faire un miracle ! Si vous m' aviez soldée, je serais retirèe des affaires, et serais plus tranquille. Je dis avec Cesar ! "*Je ne pouvais supporter l' idée* '*d' etre Soupçonnée !*' Ma réputation est Européenne, je ne souffrirai pas que vos compatriotes ose ‡ ternir mon nom. Vous me devez loyalement, *J' ai cru à la bonne foi,* à cette loyauté d' un

* For rentrées. † For vieille. ‡ For osent.

véritable anglais, J' y crois encore. Mais déverser le blâme, y mêller * l' ironie, Certes je ne le souffrirai pas ; *J' ai refusé les offres de votre ennemi.* Vous ne m' en avez fait aucune. S' il en eut été ainsi, *Je vous mépriserais !* Si on conteste la véracité d' une carte qui a passé par mes mains, exigez que cette même Carte, (torn,) vérifieé en présence d' experts. C' est en France (torn) faut faire une enquête. Si elle est reconnue louable, alors, elle est admise comme preuve de votre filiation, dans le cas contraire, on prononcera.—la Subordination † ni les sots propos ne pourront en imposer à vos Juges qui du reste *Sont Gens d' honneur*, et ne trahiraient pas leur conscience pour dépouiller une famille, ainsi que les créanciers d' une famille, dont le chef est sous le joug de la persécution. Je suis si tellement outreé de tout ceci, que je me dépitte. Mais en vérité on le serait à moins. J' ai prêté mon argent avec noblesse et l' on m' accuserait de *Simonie.* horreur — horreur. Je vous offre mes souhaits, ainsi qu' à la Comtesse. Votre très humble. Le Normand.

[A Translation of the Preceding.]

Paris, 9. *January* 1839.

My Lord,

At the time of your son's arrival in our capital, I was unwell, which prevented my hearing many details of your interminable process. I have, however, learned, that your adversaries have dared to call in question the existence of a debt as just as it is sacred, *and which goes back to the year* 1812; without taking into consideration that I have many times called into requisition the resources of my friends, in order *to serve you in your times of need;* to have obliged friends in misfortune during 27 years, would then be a crime in Scotland? in that land so rich in noble recollections ! ! ! ! I said to you, '*You have only to make out my* '*account, and you will pay me gradually as your income comes in.*' It goes farther back ! You sent me your work, as to a publisher, and one able to distribute a number for you ! I offered the work to persons of distinction who visit me. I spoke favourably of you —the friendship which I bear your Lady, your numerous family, make me eloquent ! An old map of Canada, bearing autographs of *Fenelon, Flechier, Louis* 15*th*, &c. &c. was left at my House, the 11 of July 1837 ; it was hermetically enclosed in strong chocolate coloured paper, with three seals, and *accompanied with a letter*, a copy of which I have already sent you. I might say, *I was in possession of this map*, in the same way as of many other *autographs* since the revolution of 1789. A friend of truth, knowing nothing but the truth, I said '*look at it and judge !!*' the odious part of it, is *the possibility of supposing* that M^elle^ Le Normand has incurred the guilt of fixing a price upon a friendly service. You know my

* For mêler. † For subornation.

delicate feelings. *I would look on myself with abhorrence,* were I so far the slave of cupidity as to *exact a high remuneration !* Declare then boldly before your judges, that for these 27 years past you owe me large sums of money with *accumulated interest.* Were the reckoning as between clerk and master, I might easily claim 500,000 fr. God alone, my Lord, can enlighten your judges ! God alone can work a miracle ! had you paid me, I would have retired from business and should be more quiet. I say with Cæsar, ' *The thought of suspicion I could not brook.*' My reputation is European, and that your countrymen should dare tarnish my name is what I will not endure. You owe me in good faith, *I trusted to the good faith,* to the known honour of a true Englishman, I still trust in it ; but to pour forth censure, and to heap irony upon it, is what I will never endure. *I refused the offers of your enemy ;* from you, I never received any ; had it been so, I would have despised you ! If they contest the authenticity of a map which you have received from me, demand that the same map be verified in presence of men of skill (*Experts.*) It is in France that an inquiry must be made. If it be recognized as genuine, in that case it is admitted as a proof of your descent ; in the contrary event, judgment will be given. Subornation and idle talk can have no weight with your judges, who after all are *honourable* men, who would not betray their conscience for the purpose of robbing a family, as well as the creditors of a family, whose head is under the yoke of persecution. All this makes me so indignant, that I get perfectly out of temper ; but in truth, one might be so for much less. I have lent my money in the most generous way, and they would accuse me of simony. Horrid, horrid. I present to you my best wishes, as also to the Countess.

Your very humble Servt.

LE NORMAND.

[No. 52 of Inventory of Productions.]

Letter docqueted 1839, Paris, 4th Feby, Mlle Le Normand & Monsr. T.—R. 7 and 8th Do.

4 *Fev.* 1839.

MADAME ET AMIE,

Je suis vraiement inquiète de votre santé, de celle de votre interessante famille. Que fait Milord ? Je le crois très affligé. On parle du départ d'un François attaché aux archives de France porteur de divers documens tant sur la filiation du Comte, que sur la carte où se trouve les autographes qu'on lui conteste. D'ici au 8 courant on se met en route pour Edimbourg. Mr votre fils, que j'ai reçu, a dû vous rapporter que j'avais de justes craintes sur la liberté de Milord. Je l'avais même engagé de faire une revue sérieuse dans ces papiers. Quand ont est

mecontent, on écrit souvent par indignation, ce que l'on ne voudrait pas que des ennemis mette* au jour. On abbat que l'homme timide, que l'homme coupable! mais celui, dont la conscience est pure, ne saurait trembler! Veuillez ma Chère Comtesse me donner de vous nouvelles. avez vous écrit depuis le retour de Mr votre fils. Je n'ai rien reçu. On dit qu'une Lettre addressée par votre époux fut interceptée. J'ignore encore qui pouvait se permettre une telle infamie. Milord réclame les possessions allouée† à sa famille. C'est aux tribunaux à juger si la demande est bien ou mal fondée. Mais pénétrer clandestinement le secret d'une correspondance d'un Client à son Conseil, c'est le nec ultra de la corruption. d'ailleurs vos détracteurs n'en peuvent tirer aucun fruit. Si j'ai été assez heureuse de vous obliger depuis tant d'année,‡ si votre époux m'a juré sur l'honneur de me rembourser *une avance*, assurément Je dois être à ses yeux, ainsi qu'aux votres, une personne bien délicate. Je n'ai rien reçu et n'en continue pas moins à vous assurer de mon attachment, et des voeux que je forme pour vous voir libres de tous vos embarras. Je les présume grands dans cet instant. C'est dans le danger qu'il faut conserver son caractère et Milord n'en manque pas. Assurez le de mon intérêt. S'il n'evite pas les pièges, il faut espérer qu'il n'y succombera pas: Votre dévouée.

P.S. Il me semble qu'il serait dans l'intérêt de Milord sauf meilleur avis, de prier M. M. Daunou Chef des archives, ainsi que M. Vilnave de vouloir attester dans leur âme et conscience, que si l'on éleve des doutes, sur leur conviction, c'est a tort.

[Translation of the preceding.]

4th February, 1839.

MADAM AND FRIEND,

I am really uneasy about your health, and that of your interesting family. What is my Lord about? He must be in great distress. They speak of the departure of a Frenchman attached to the Archives of France, the bearer of various documents regarding both the descent of the Earl, and the map, on which are the disputed autographs. Between and the 8th current they start for Edinburgh. Your son, whom I have seen at my house, will have told you that I entertained serious apprehensions as to the personal liberty of my Lord. I had even solicited him carefully to go over all these papers. When out of humour, one often writes from indignation, what one would not wish an enemy to make public. You must be aware that in a struggle so unequal, all means are fair. The timid man, the guilty man, may be overthrown; but he whose conscience is pure knows

* For mettent. † For allouées. ‡ For années.

not what it is to tremble! My dear Countess, do let me hear from you. Have you written to me since the return of your son? I have received no letter. It is reported that a letter written by your husband was intercepted. Who could have committed such an act of infamy is as yet unknown to me. My Lord claims the possessions granted to his family. It is for the Court to decide whether his demand be well or ill founded. But, clandestinely to pry into the secret correspondence between client and counsel, is the *ne plus ultra* of corruption. Besides, your detractors can derive no benefit from it. If I have been fortunate enough to oblige you during so many years; if your husband swore on his honour to refund an *advance*, I must, in his eyes, as well as in yours, be a person of great delicacy. I have received nothing; and I do nevertheless continue to offer you the assurance of my attachment and my wishes to see you all relieved of all your embarrassments. I fancy these are very great at this moment. Be of good heart, my dear Countess. It is in moments of danger that one must sustain one's character, and in this my Lord is not wanting. Assure him of my continued interest. If he should not avoid the snares, let us hope that he will not be their victim:

Your devoted.

P.S.—It appears to me that it would be for the interest of my Lord, in the absence of better advice, to request Mr Daunou, head of the archives, as well as Mr Villenave, to be so good as attest, on soul and conscience, that any doubts started as to their conviction are unfounded.

[No. 53 of Inventory of Productions.]

EXTRACT from a Private Deed or Agreement on the part of the Earl of Stirling, to repay by instalments to Melle. Le Normand, the amount in principal and interest, of different loans advanced to the said Earl between 1815 and 1837.

Extract de l'*Acte sous seing privé* entre M^elle^ Marie Anne Le Normand, Auteur, Libraire, propriétaire, et Alexander Comte de Stirling.

'Moi Alexander Alexander Comte de Stirling,' &c. &c. Reconnais devoir bien legitimement a la dite demoiselle Le Normand la somme totale de *quatre cents mille francs* recus en espèces en diverses versemens soit à Paris soit a Londres, dont plusieurs remontent aux années antérieures. La dite somme de *quatre* cent *mille francs* procréera intérêts a cinq pour cent à compter de ce jour sans aucune retenue m'engageant en plus sur l'honneur moi et les miens qu'aussitot la conclusion de mes affaires tant en Angleterre qu'aux Etat-Unis et au Canada. Je compterai à Mademoi-

selle Le Normand, entre ses mains, ou dans celles de son chargé de pouvoir à Edimbourg en Ecosse; ou par des traites sur la Banque d'Angleterre, si toute fois, j'avais change de residence, 1°. les arrérages échus de la dite somme de *quatre cent mille francs*— 2°. Dans les six mois qui suivront ma rentrée dans mes biens, je donnerai un accompte, sur la somme principale, de cent mille francs, et ainsi d'année en année jusqu' à fin de payement et les intérêts servis integralement ce qui comportera quatre années à compter du premier remboursement, et pour le solde général du dit prêt.

Edinr. 18 *Feby.* 1839.—Referred to in my declaration.
(Signed) STIRLING.
G. TAIT.

[Translation of the preceding.]

EXTRACT from the *deed, under private Sign Manual*, between M^elle^ Marie Anne Le Normand, Authoress, Publisher, Proprietrix, and Alexander Earl of Stirling.

I, Alexander Alexander, Earl of Stirling, &c. &c. acknowledge, that I am duly indebted to the said Demoiselle Le Normand in the principal sum of *four hundred thousand francs*, received in cash, both at Paris and in London, in different payments, some of which were made in the course of previous years. The said sum of *four hundred thousand francs* will bear interest at the rate of 5 *per cent.* from the present date, without any reduction: Moreover, binding me and mine, in honour, that so soon as my affairs, as well in England as in the United States and Canada, shall be concluded, to pay to Mademoiselle Le Normand, into her own hands, or into those of the person at Edinburgh, in Scotland, holding a power of attorney from her, or by drafts on the Bank of England, in the event of my having changed my residence, 1*o.* The arrears due on the said sum of *four hundred thousand francs;* 2*do.* within the six months after my recovery of my property I shall make a payment of one hundred thousand francs, to account of the principal sum, and so on, from year to year, till final payment, with the whole of the interest, which will take four years from the date of repayment of the first instalment, and for the general discharge of the said loan.

[Part of No. 4 of Inventory of Productions.]

EXCERPTS from LETTERS from Mr Eugene Alexander to the Earl of Stirling.

London, April 22d.

26.

My dear Father,

I have your 24.

At 1/4 to seven to-night I write a few hasty lines to say, that I received . . . new evidence yesterday, and ever since have been so occupied as not to be able to do any thing—not write a letter. It contained four documents, and a beautiful portrait of John of Antrim. I shall write on Monday full particulars.

Your affectionate Son,

(R. 24th.) E.

London, April 23d, 1837.

No. 27.

My dear Father,

You will receive my 26 of yesterday with the great news of the new evidence. I now proceed to give you full particulars. I received your last (24.) on Friday morning, and went to Golden Square to see W. Pearson and Angela. It was on my return home that I called at De Porquet & Co. about 2 o'clock, when the young man at the counter said, that they had received a packet by the 2d post about an hour before I called, which he put into my hands. It was directed to Messrs De Porquet & Co. 11 Tavistock Street, Covent Garden, London. They had opened it, and found the following note, with another packet addressed 'The Right Hon^ble the Earl of Stirling. The Note was as follows in a Lady's hand without disguise. 'Mrs Innes Smyth's Compliment,' &c. (here the note is copied.) I took the packet, with the cover, and note to De Porquet, just as they received it, in my pocket. Upon getting home, and taking off the cover to De Porquet, I read again the note, and examined the packet addressed to you. I sat to consider what I would do. It all at once struck me that I would go before a magistrate or some other public functionary, to have his testimony of being present at the breaking of the Seal. I then went to Mr Lockhart (who is living close by me, having taken lodgings in Surrey Street) and consulted with him. He highly approved of my idea, and advised me to go to our Sol^rs Fennell and Vaux, and ask them, as English lawyers, whether it was the proper mode of proceeding to go to a magistrate. I saw Fennell; and, after long debating, he said that, never having had any thing similar to it before, he really did not know what to advise. It was too late that night to get any thing

done. We then fixed ten o'clock yesterday morning for Mr Lockhart, and all of us to meet at their office. We decided at last when we met, that a Public Notary was the proper person to open the packet. Fennell and I then got into a cab, and (drove) to the great Notaries at the Royal Exchange. The packet was then opened, and within it another packet, cased in parchment, was discovered with the following words upon it:—'Some of my wife's family papers.' In an instant I exclaimed, 'that is my Grandfather's hand-writing.' The parchment packet was sealed with three black seals; all the same impression; evidently my Grandfather's seals; not like those we have. I cannot describe them. We then examined the cover; it was addressed to you as before-mentioned; and inside are the following remarkable words: —'The enclosed was in a small cash-box,' &c. (here copied at length.) Then follows the Notary's certificate upon the same paper, 'This Note was opened in my presence,' &c. (here the certificate is copied.) The sheet of paper is a mourning one with a deep black edge round, owing to the death of the thief. The Notary then said his duty ended there as he could not venture to witness the (opening of the) parchment packet. He said we must go to Doctors Commons before a Proctor. We then went to the Proctor Thomas Blake. Here we were five hours. I cut the parchment, and four persons, as witnesses, watched me. I cut the parchment over the middle black seal, and was then able to draw out the contents. I refer you now to the copies of the documents accompanying this letter. They have all been numbered by the Proctor. No. 4. Mr Lockhart tells me we need not produce in Court, because it is only a beautiful miniature painting of John of Antrim, which I had better, perhaps, get framed, that it may not be spoiled. There is also the pedigree beautifully executed, both by the same person, Mr Thomas Campbell, and dated 1759. The contents of the parchment packet must, I suppose, have remained untouched if it was put up just before the removal to Fair-hill 50 years, which accounts for the admirable state of preservation it is in. The thief never dared break the Seals. The Proctor and the other three witnesses have put their initials upon every document, and a formal paper has been drawn up and signed by all 4 to prove that they all saw the packet opened. The Proctor also made verbatim copies of every document, which have been compared with the originals and signed by the Examiners. You will see that the Inscription is now made a good document, being confirmed by the Letters of B. Alexander and A. E. Baillie. The cause is enrolled to be heard on the 31st day of May.

In haste your affectionate Son,
E. J. A.

JUDICIAL DECLARATION of the DEFENDER in the Action of Reduction-Improbation, &c. The OFFICERS OF STATE, against ALEXANDER, calling himself EARL OF STIRLING.

[This forms No. VI. of the Appendix to Introduction, p. xcv, and consequently omitted here.]

DECLARATIONS OF ALEXADER HUMPHREYS OR ALEXANDER, claiming to be EARL OF STIRLING.

FIRST DECLARATION.

AT EDINRURGH, the fourteenth day of February eighteen hundred and thirty-nine years,

In presence of GEORGE TAIT, ESQUIRE, Sheriff-Substitute of Edinburghshire,

COMPEARED ALEXANDER EARL OF STIRLING, at present in custody, to whom it was stated by the Sheriff-Substitute that he was charged with forging, or being concerned in forging, or obtaining to be forged, certain documents produced in a process depending before the Court of Session at the instance of the Officers of State against him, or uttering them knowing them to be forged; that his present declaration would probably be used in evidence against him if brought to trial on those charges; and that therefore he was entitled to decline answering any questions put to him, or to give such answers in explanation as he might think proper. Interrogated, declares, That some years ago a process of reduction at the instance of the Officers of State was raised against him in the Court of Session, for setting aside two services which he had obtained as heir to the first Earl of Stirling, and various procedure has taken place in that process, and he has produced several documents in support of his claim: That he left Edinburgh in the beginning of the year eighteen hundred and thirty-six, and lived for a short time in houses of private friends in England; and he left a friend's house in England on the fifteenth of December of that year, and embarked about the eighteenth for France, and he remained in France until the following August, when he returned

to Edinburgh for the Peers Election;—and when in Paris, in March or April eighteen hundred and thirty-seven, he heard that Lord Cockburn had pronounced an unfavourable judgment in his case, and at that time a copy of the printed papers of the judgment and of the note, was sent him by his family from Edinburgh, and until that time he was not aware that Lord Cockburn had entertained or formed an unfavourable opinion of his case: That when in Paris, in the end of April, he received two letters from his son Eugene in London, dated the twenty-second and twenty-third of that month, informing him that certain documents had been sent to his publishers Messrs de Porquet and Cooper, booksellers, 11 Tavistock Street, Covent Garden; and at the same time the declarant received copies of the documents, and the documents appeared to be very material to his cause, and he had not the slightest knowledge of them until that moment, and he never saw the originals until he returned to Edinburgh, when he got a glimpse of them from his agent Mr Ephraim Lockhart, W.S. and he hardly knows the appearance of them: Declares, That he had occasionally called on Mademoiselle Le Normand in Paris, by desire of Lady Stirling, who was well acquainted with her; and on one occasion of his calling, she took from a cover and opened before him a map, accompanied by a letter, which he found to be a map of Canada, having some writings made upon it, and some pasted upon it, and she read the accompanying letter which was not subscribed by any person: That she said she had suspicions who the person was, but did not mention his name: That he examined the map and writings on it, and saw that it was a most important document: That he himself has no knowledge or suspicion from whom she may have received the packet; and all that he knows of it is that he heard afterwards, either from her or from some person residing in her house, that two ladies fashionable dressed, and who were unknown, had been observed to leave the packet on a chair or table in her apartment: That Mademoiselle Le Normand would not part with the map, and he did not obtain it until November of the same year, when his son Charles brought it from Paris, and it was then produced in Court sealed with her own seal; and after the seals were broken by the Court, the packet was borrowed by Mr Lockhart, who gave the declarant a glimpse of it at the declarant's house, and the declarant was satisfied that it was the same map which Mademoiselle Le Normand had shewn him in Paris; but he [had] not an opportunity of examining it particularly when he was in Paris, as she would not part with it. Declares, That he understood that the writings received by his publishers in London, as before mentioned, were also produced in process; his son Eugene or Mr Lockhart, who was then in London, having, as the declarant was informed, carried them to Edinburgh for that purpose: That it appeared to the declarant from the copies sent to him, that they were extremely valuable documents; and he has no doubt that he wrote to his son, that

they ought to be produced in process, if they were found to be so important as they appeared from the copies to be; but whether the documents were produced in process before or after his return to Scotland he cannot say: That he left it to his two sons, to act in all such matters, as they should be directed by counsel. Declares, That on the eighteenth day of December last, he was judicially examined before the Court of Session with regard to the writings and map before referred to; and a declaration, bearing to be emitted by him in the Court of Session, of that date, being shewn to him, he declares that it is that referred to; and it being now read over to him, and being interrogated, declares, That it is correct, with this explanation, that instead of having granted obligations to Mademoiselle Le Normand for four hundred thousand francs, he granted only two obligations, each for one hundred thousand francs; and he made the mistake in consequence of not being prepared to answer such a question with accuracy at the time he was examined; but declares, That the total amount of what he owes to Mademoiselle Le Normand, including accumulation of interest for many years, was computed to amount to four hundred thousand francs, and, therefore, he promised and came under an obligation by letter to pay her to that amount; but he granted regular obligations or securities to the amount only of two hundred thousand francs, and she trusts to his honour for payment of the remainder: That he still declines to answer the questions which he formerly declined to answer; and he now states, that his debt to Mademoiselle Le Normand was entirely a private affair, arising out of remote transactions, and had no connection whatever with the present proceedings. And being shewn a card, bearing to have been written by Mrs Innes Smyth to Messrs de Porquet and Company, dated Hackney, April 19; an anonymous note to the declarant, dated April 17, 1837; a cover of parchment having on the back, the words 'Some of my wife's family papers;' an emblazoned pedigree of the Earls of Stirling; a letter, Dr Benjamin Alexander to the Reverend John Alexander of Birmingham, dated London, August 20th 1765; a letter, A. E. Baillie to Reverend John Alexander of Birmingham, dated Dublin, Septemr. 16, 1765; a letter, Dr Benjamin Alexander to Mrs Alexander, King Street, Birmingham, dated London, July 26, 1766; a paper entituled on the back, Examined Copy Note upon Miniature portrait of J. Alexander, Esq. of Antrim, and a map of Canada, having various writings upon it; and being interrogated, declares, That he knows the map to be that referred to, but he cannot identify any of the other writings. The declaration, the map and writings are now marked, as relative hereto. And being interrogated, declares, That he has no knowledge or suspicion of the map or any of the writings having been forged; and, if he had had any suspicion that they had been forged, he would not have used them, or authorized them to have been used, and he would have spurned such an idea: And being interrogated with regard to the writing on the cover of the map, now

also shewn him, and marked as aforesaid, declares, That he knows it to be in the handwriting of Mademoiselle Le Normand. And all this he declares to be truth.

(Signed) STIRLING.
G. TAIT.
ARCH^D. SCOTT.
RICH^D. J. MOXEY.
JA^S. MACKENZIE.

SECOND DECLARATION.

AT EDINBURGH, the eighteenth day of February eighteen hundred and thirty-nine years,

In presence of George Tait, Esquire, Sheriff-substitute of Edinburghshire,

COMPEARED ALEXANDER EARL OF STIRLING; and the caution at the commencement of the declaration emitted by him in presence of the sheriff-substitute on the fourteenth current, being repeated, and that declaration being read over to him, and he being interrogated, declares, That he adheres thereto. Interrogated, declares, That when he was in Paris he did not correspond with his law-agents: That he received letters from his sons, mentioning in a general way the nature of Lord Cockburn's judgment; but he does not know whether any of those letters are preserved: That he got no distinct information as to the judgment, until March or April of eighteen hundred and thirty-seven; and until then he had no idea of the extent to which Lord Cockburn's judgment was unfavourable; and in particular, he was not aware that Lord Cockburn had pointed out any links in the propinquity as being awanting: That he was engaged at Paris in literary pursuits; and, in particular, he was concerned in supplying information with regard to the state of society in England, to a friend who is engaged in publishing a work upon England, which has not yet been announced; and he was also engaged in writing a memoir of his own life: That he declines to mention the persons concerned in the publication of the work first alluded to. Interrogated, declares, That a few days before Mademoiselle Le Normand shewed him the map, she asked him to look in upon her soon, as she used often to do, and at that time he was in daily expectation of hearing from his family in Scotland; and he was altogether unprepared for the discovery of the map; and he was completely taken by surprise: That he had called upon her occasionally, but not often, and generally in consequence of letters from his family, whose welfare he wished to communicate to Mademoiselle Le Normand: That he called for her sometimes in the morning and sometimes in the evening: That, at

that time he was living in great seclusion, and under peculiar circumstances, and, therefore, it was more agreeable for him to call on her in the evening: That he cannot say how long he usually remained in her company: That he occasionally wrote and addressed letters and papers to her, which he sometimes sent to her, and which he sometimes left in passing; but she never wrote to him: That, when he conversed with her, it was generally in her own closet: That he does not know whether there were writing materials in the closet on those occasions; and he does not remember of any thing being written in the closet in his presence: That he has frequently conversed with her regarding his law-suit, but never with regard to the detail of the evidence: That he was very desirous to find the charter of *novodamus*, referred to in his process, and any other writings respecting the Stirling family: That Lady Stirling had requested Mademoiselle Le Normand to endeavour to get searches made in the Archives in France, Germany, and elsewhere, for any such papers, which she kindly undertook to do; and he understood that she employed persons, friends of her own, who are unknown to him; and he merely made out a few short memoranda in such terms as these:—'The charter of *novodamus* granted 'by King Charles the First, to the first Earl of Stirling, 1639, and 'any other papers regarding the Stirling family?' declares, That he understood from Mademoiselle le Normand that she declined to give the map to him, because she had got legal advice that she ought not to part with it; but she allowed him to take copies of the writings for the information of his family, which he accordingly did at her house; and he forgot that circumstance when he said he had never written in her house: That he afterwards procured Monsieur Triboul, a student of medicine, who visited Mademoiselle le Normand's house, to take a copy of the map, with the writings upon it, which he brought with him to Scotland, and which he now has at home: That she never asked money for the map: That he had great difficulty in making out the writings on the map; but he perused them attentively, and copied them for the use of his family, as above mentioned: That the commencement of the transactions with Mademoiselle le Normand was very far back — probably as far back as eighteen hundred and fifteen, or eighteen hundred and sixteen; and they were, especially at the commencement, chiefly assistance rendered to Lady Stirling, and those transactions continued until comparatively a recent period: That so far as he is aware, no obligations or documents were granted as to these transactions, except in so far as mentioned in his former declaration: That his obligation for four hundred thousand francs was granted before the discovery of the map, and his two notes for one hundred thousand francs each were sent to her after his return to Scotland: That he has strong suspicions that the map of Canada was in the Archives in one of the Administerial Departments of France a short time before Mademoiselle le Normand had it; and he believes that it was sent to her by the

intervention or direction of a person high in office; but he does not consider himself at liberty to be more particular, because he can only form a supposition on the subject, though he believes it to be correct: That he wrote a letter to Mr Thomas Thomson, clerk of Session, stating that he believed that, if a commission was granted to examine evidence in France, he could prove in whose possession the map was before Mademoiselle received it; but he declines to mention names at present, because he is only making inquiries: That Mademoiselle le Normand did not say whom she suspected to have had the map previously to her getting it. And being shewn five letters, addressed to Lady Stirling, dated 11th June, 13th August, 30th November, 1838, 8th January, and 4th February, 1839, declares, That they are letters from Mademoiselle le Normand to Lady Stirling: That they all came by post, except the one dated in January, which his son Charles brought with him from Paris. They were in his house when he was taken into custody: That the markings on the back are in his hand-writing, and shew the dates of his receiving and answering them, and the numbers within parentheses denote the numbers of the letters which he has written to Mademoiselle le Normand since he came from France. And being shewn another letter to Lady Stirling, dated 9 January, 1839, declares, That it is a letter from Mademoiselle le Normand to Lady Stirling, and is a letter which he gave to his agent Mr Lockhart. And being shewn translations of letters bearing to be from Mademoiselle le Normand to the declarant, dated 26th September, 17th October, and 26th November, 1838, 9 January, 1839, and 8 November, 1837; and translation of a letter from her to Lady Stirling, dated 18th October, 1837, declares, That Lady Stirling and he received from Mademoiselle le Normand the letters from which those translations were taken; and the translations were taken for the use of counsel, and were in his repositories when he was taken into custody. And being shewn copy of a letter from Mademoiselle le Normand to the declarant, dated 19 April, 1838, declares, That he received the principal letter from Mademoiselle le Normand. Interrogated where are the principal letters from which the translations and the copy before referred to were taken, declares, That he supposes they must be either in his house or in the hands of Mr Lockhart: That his papers are in confusion in consequence of his having frequently turned them over in looking for different papers: That after a letter from Mademoiselle le Normand was copied or translated for the use of counsel, the original was laid aside as of no farther use, and little care was taken of it, especially as Mademoiselle le Normand's hand is very difficult to be read; and the declarant's attention being called to the letter of 8th January, 1839, declares, that it was delivered to him by his son on his return from France in its present form. And being interrogated with regard to the meaning of the following passage: 'Seulement 'on a decouvert l' homme du quai. On vient le faire partir pour

'l'Ecosse. Il declare que voila 18 mois il a vendu une carte du 'Canada a un Anglais qui plusieurs fois est venir chez lui. On 'lui a dit le reconnaitrez vous. Je le crois,' declares, That his son and friends had been making inquiry for a man of the description referred to, who was alluded to by the Lord Advocate at the declarant's examination in the Court of Session, under the name Leguix, and Mademoiselle communicates the information, that such a person had been discovered: That the declarant never heard of such a person until he was alluded to by the Lord Advocate at the declarant's examination. And his attention being drawn to the letter of 4th February, 1839, declares, That the marking on the back of it, 'Monsr. T.' is a marking by him, to put him in mind that he had received a letter from Monsieur Triboul by desire of Mademoiselle le Normand, communicating some similar information; but he does not know where that letter is now. And his attention being drawn to a passage about the middle of the first page of that letter, declares, That that passage merely contains an intimation of reports, which Mademoiselle le Normand had heard of persons boasting in Paris that he should be arrested, and a caution to the declarant's wife, as a friend, to destroy any papers which might be prejudicial to the declarant's interest; and declares, That that is a very natural caution for a French woman to give, because the seizure of papers is a very common step of procedure in France, when proceedings are instituted against any person. But he did not think it possible that such a proceeding, or criminal proceedings of any nature, should be instituted against him in Scotland; and, therefore, he treated the intimation with levity, being conscious of his innocence: That neither he nor his family, in so far as he knows or suspects, destroyed or put away any papers or correspondence connected with the law-suit, or with Mademoiselle le Normand's assistance in the matter; and he has no suspicion of Mademoiselle le Normand having done so. And being shewn a paper entitled, 'Extrait 'de l'acte sous seing privé entre M^ele^ Marie Anne Le Normand, 'auteur libraire, proprietaire et Alexander Comte de Stirling,' declares, That it is in his hand-writing, and was made in Paris from the agreement between him and her long before the map was discovered; and he thinks about the beginning of his last residence there. Interrogated, declares, That he was at Boulogne, and other towns in the coast of France, in eighteen hundred and thirty-four, but he was not in Paris; and he declares, That although he did not see Mademoiselle le Normand between eighteen hundred and fifteen and eighteen hundred and thirty-six, and although Lady Stirling saw her only in eighteen hundred and twenty-two, the two ladies carried on a friendly correspondence by letter, and Mademoiselle thought proper to make remittances from time to time to accommodate Lady Stirling; declares, That he does not think the correspondence on that subject has been preserved; and, if it had been, he did not think it would have been proper to

produce it. Declares, That he has not given any money to Mademoiselle le Normand since the recovery of the map; but he sent a small sum of ten or twelve pounds sterling by his son, Charles, to her, to reimburse her for trifling advances she had made in procuring articles for him. Declares, That he has purchased prints of portraits in a shop on the Quai Voltaire; but he does not know by whom it is kept: That he did not purchase or inquire for a map of Canada when in France, and did not employ any person to do so for him, and does not know of any person having done so. And being interrogated, and being shewn a copy of an address, bearing to have been issued by the declarant to the inhabitants of Nova Scotia and Canada, of date 28th October, 1831, declares, That he issued an address about that time which was printed; and a copy of it was sent to the Government of this country, and he did so by the advice of counsel, or other professional men; but he cannot say whether the copy shewn him be a correct copy of that address: Interrogated, declares, That he opened an office in Parliament Street, London, to receive offers for the purchase of lands in Canada; but he does not remember whether that was mentioned in the address. Interrogated, declares, That he does not recollect whether, when he was in France, he wore hair on his upper lip. The writings shewn him in the course of this examination are marked as relative hereto. And all this he declares to be truth.

(Signed) STIRLING.
G. TAIT.
ARCHD. SCOTT.
RICHD. J. MOXEY.
JAS. MACKENZIE.

THIRD DECLARATION.

AT EDINBURGH, the sixth day of March, eighteen hundred and thirty-nine years,

In presence of George Tait, Esquire, Sheriff-substitute of Edinburghshire,

COMPEARED ALEXANDER EARL of STIRLING, at present a prisoner in the gaol of Edinburgh; and the caution at the commencement of the declarations emitted by him in presence of the Sheriff-substitute, on the fourteenth and eighteenth days of last February, being repeated, and those declarations being read over to him, and he being interrogated whether he adheres thereto, he declares, That, by his agent's advice, he declines to answer any questions. And being interrogated whether he knows that a process or processes of proving the tenor were raised before the Court

of Session at his instance against the Officers of State and others in eighteen hundred and twenty-nine, or eighteen hundred and thirty, declares, That he declines to answer any questions. And being shewn a paper purporting to be, 'Excerpt Carta de Novodamus Willielmi Comitis de Stirling Comitatus de Stirling,' &c.; and being interrogated whether he was ever in possession of that paper, and whether it was produced for him in either of the processes of proving the tenor before referred to, or authorized it to be so produced, declares, That he declines to answer any questions. The paper referred to is marked as relative hereto. And being interrogated whether he ever saw that paper before, and whether he knows how it was obtained, declares, That he declines to answer any questions. And the declaration being read over to him, and being interrogated whether it is correctly taken down, declares that it is.

(Signed) STIRLING.
G. TAIT.
ARCH^D. SCOTT.
RICH^D. J. MOXEY.
JA^S. MACKENZIE.

HIGH COURT OF JUSTICIARY.

MONDAY, APRIL 29, 1839.

THE COURT MET AT HALF-PAST TEN O'CLOCK.

PRESENT.

LORDS MEADOWBANK, M'KENZIE, MONCREIFF, COCKBURN.

Counsel for the Crown. — ANDREW RUTHERFURD, Esq. Lord Advocate; JAMES IVORY, Esq. Solicitor General; COSMO INNES and ROBERT HANDYSIDE, Esquires, Advocates Depute; DAVID CLEGHORN, Esq. W.S. Agent.

Counsel for the Pannel. — PATRICK ROBERTSON, ADAM ANDERSON, and JOHN INGLIS, Esqs.; HENRY MAXWELL INGLIS, Esq. W.S. Agent.

The pannel took his place at the bar, accompanied by Colonel D'Aguilar, Deputy Adjutant General to the Staff in Ireland. Colonel D'Aguilar remained with him during the whole period of the trial.

The indictment having been read, — to which the pannel pled "Not Guilty," — the following jurymen were sworn to pass on the Assize: —

Robert Hogue, dentist, Hill Street.
Adam Burn, coach-lace-maker, Dublin Street.
John Kersopp, merchant, Linlithgow.
Thomas Young, merchant, Bank-house.
George Hogarth, accountant, Torphichen Street.
Alexander Aitken, farmer, Fisherrow.
Thomas Malcolm, pianoforte-maker, Drummond street.
Ebenezer Scott, baker, Lothian Street.
James Torry Douglas, general agent, John's Place.
Robert Gray, farmer, Badpark.
John Gilbert, pawn-broker, Coatfield-lane.
Peter Wilson, spirit-dealer, Bank Street.
John Cruickshanks, gardener, Burnfoot.
George Campbell, grocer, Elbe Street.
Kenneth Scoon, baker, Clerk Street.

Mr JOHN MORRISON, assistant-clerk of Session. Interrogated by Mr Cosmo Innes.

You are assistant-clerk of Session? I am.

It is your duty to receive productions made in processes in the Court of Session? It is.

Look at that action of proving of the tenor. (No. 1 is shewn witness.) You observe that mark? Yes.

When was the summons lodged? On the 17th December, 1829.

Look at the date of the signeting of that summons. It is dated the 12th October, 1829, and signeted the same day.

Look at the excerpt. See if it was produced in the process of proving the tenor. (First document libelled on, No. 1 of inventory of productions.) It was produced in process. It must have been about the 17th December, 1829. It is No. 10 of inventory, No. 12 of process.

By the Court.—Could the summons have been called without it? Yes.

Mr Innes.—Have you any recollection of the person who produced that document? No.

It was produced for the pursuer calling himself the Earl of Stirling? Yes.

Mr Lockhart was then the agent? Yes.

It was produced by or for him? Yes; Mr Lockhart's name is on the back.

You do not remember the person who produced it? Do you know where it was produced? The usual place of doing it is in the Register Office.

By the Court. — Would you have received it any where else? No.

And it appears from the document itself that you did receive it there? Yes.

Mr Innes.—Look at the inventory of process, and read the first article after it. (The witness examined, and recognized the whole process.)

Look at the second summons of proving the tenor, (No. 3 of the productions,) at the instance of the said pursuer. Dated and signeted what date? 2d September, 1830, and signeted the same day.

Was it received by you? Yes, there is my mark.

Can you tell us whether this document was again produced with that summons or in that process? Yes, it was produced in the second process also.

What date? I cannot tell.

When was the summons called? On the 18th November, 1830.

It is probable that it was produced then, and not before? It would probably be lodged along with the summons. The summons ought to have been lodged on the Monday, 18th November.

By the Court.—Is there no date on the excerpt? No date.

But there is a mark on the excerpt in the second process? It is only one marking, 12, H. T. M. That marking applied equally to both processes.

Do you distinctly recollect that that marking was on it as No. 12 of the second process? Yes.

By Solicitor General.—Look at the inventory of productions of the second process. Is this the inventory of the second process? Yes.

Now, look if you find how many numbers are in the inventory of productions? 13.

What number is the excerpt? No. 12.

Read the articles of the inventory. First, Summons; second, Inventory of productions.

Now, read the receipt immediately after that. (Receipt read by witness.)

That receipt contains a borrowing of that excerpt as in the hands of the clerk? Yes, borrowed on the 18th November, 1830, by the clerk of Mr F. Wilson.

By the Court. — He was acting for the Officers of State? Yes.

Mr Innes. — Look at the summons of reduction and improbation against William Cuninghame Cuninghame Graham, dated and signeted the 1st September, 1830? Yes, signeted on the same day.

Was that placed in your hands? Yes, it is a printed copy of the summons.

Lodged along with the original by the agent, or for the agent of the pursuer? Yes.

Cross-examined by Mr Patrick Robertson. — You say that this paper marked 12, H. T. M. was produced in both of these processes, because it is No. 10 of each of the inventories? Yes.

Look at the first inventory, and read No. 10? It is a mandate by the pursuer.

Therefore it is not the excerpt? No, it is not the excerpt.

It is No. 9? Yes. It is not marked by me.

You now tell me it is No. 9? Yes.

No. 10 is a mandate? Yes.

Then No. 10 ought to have been No. 12? Yes, there is some mistake.

Then you cannot tell whether that was produced in the two processes? I am certain it is produced in the first, because I see Mr Hay's marking.

Now, you conclude it was produced in one of them duly? Mr Hay would never have marked No. 12 if it had not been produced.

Do you know any thing more about the document? Do you know any thing of the interior? No.

All that you know is that Mr Hay's marking No. 12 is on the skin of parchment? Yes.

You did not receive this yourself? No.

How do you know that Mr Hay received it in the Register House? Because he would not have received it any where else.

You do not know whether this might not have been received in the Outer House? I do not think Mr Hay would have received it there?

Might not an excerpt or deed be produced at any time without being produced with the summons? Yes. But the inventory of the productions seems to have been produced along with the summons.

You have told us that it must have been produced with the summons. Look at the title, it says nothing about the summons. You say that the productions must have been made with the summons, because it appears to have been produced along with the summons. The inventory of productions does not bear you out in that assertion. Look at these. The one has summons on the face of it, and the other has not. How do you reconcile that? First, this is not his own handwriting, 12 H. T. M. and then he did not receive that document himself.

Lord Moncreiff. — Does not that inventory bear summons upon it? And this bears the same.

Mr Robertson. — Then, my Lord, he said they never bore that.

Lord Moncreiff (to the witness.) — That is the inventory of the productions with the first summons? (handing it to witness.) Yes.

Mr Robertson.—What number is that? No. 9.

He positively swore that this excerpt was No. 10.

Lord Moncreiff.—He swore it was produced in both.

Mr Robertson.—You are sure from the inventories that it was produced in both? I am sure it is entered here, and Mr Hay never would have entered it without it.

When the production is made with the inventory, is there a marking of the number put on the production itself to correspond with its production in process? No.

If the article had been No. 9, it would have been No. 11? (He says, my Lord, when an inventory is produced consisting of a number of articles, that that which would have been No. 10 of process would have become No. 12.) Yes.

Corresponding to the number of the inventory, adding the preceding steps of process? Yes.

And consequently, that No. 10 would be No. 12? Yes.

Then No. 12, H. T. M. being produced as No. 10 of the inventory, ought to have the marking 11 H. T. M.? Yes.

If it had been produced in both it would have H. T. M. 11, and H. T. M. 12? Yes.

By the Court.—Which of these are you confident of its being produced in? The second; that is, No. 3.

You are acquainted with Mr Hay's handwriting? Yes.

You have no doubt of his handwriting? Not the slightest. I know the handwriting as well as my own.

Mr Robertson (to the Court.)—Be so good as take down that all he knows of that marking is from the outside marking on the skin, and knows nothing of what was within. Is that the case, sir? Yes.

Do the clerks receive documents in their own houses? Occasionally on the box day; not on other days.

Mr Innes then read part of the summons of proving the tenor, (No. 1 of the Inventory, dated 12th October, 1829.) Mr Robertson said he would hold both summonses as read.

Mr Innes then read the interlocutor of 4th March, 1830, and 2d March, 1833, dismissing the two actions of proving the tenor.

He then read part of the summons of reduction-improbation proved by Mr Morrison, (No 2 of the inventory produced in second process of proving the tenor.) "The whole process is put in."

Mr George Robertson interrogated by Mr Innes.—You are joint keeper of the records? I am.

Look at that extract patent of William Earl of Stirling—that is an extract from the great seal, made under your directions? Prepared by me and the other keeper of the records.

And you found it correct? Yes. (No. 8 *a* of printed productions.)

Look at that extract dated 14th June, 1633, (No. 8 *b*,)—that is an extract of a patent in favour of William Earl of Stirling? Yes.

It is also a correct extract? Yes.

Look at that certificate of search, search A,*—that is a search made by you? Yes, a search by me through the great seal; it is titled, "search for any charter of Novodamus in favour of William Earl of Stirling," &c.

That is a correct report of the search so made? Yes, so far as I could make it.

It is made in the ordinary way? Yes, in the ordinary way, by the indexes.

It bears also that you made a particular search of one volume of the record? Yes, the 57th volume.

And you state the result of that search correctly there? Yes.

Read the title of search B, (witness read it; which was to the effect that the search was from 7 December, 1639, to 31 January, 1641.)

That includes the 7th September? Yes; and is correct so far as I have been able to make it; and it was made in the usual way.

Look at search D. That is correct, and also made in the usual way. I made the last search from the principal record.

Look at search C,—search in the General Register of Sasines. It is a correct report of the search, and made in the usual way.

Mr Robertson.—You say you searched the record? Yes.

Not the minute book? No; the minute book of the privy seal is not very satisfactory; but I searched the principal record.

By the Court.—Do you know any instances of sasines recorded, and not in the minute book? They are very rare; but I have seen some.

By Mr Innes.—Look at that extract of a charter under the great seal. Yes; dated 12 July, 1634.

Is that a correct extract from the great seal prepared by you? Yes.

Look at this last extract, dated 27 June, 1642,—is that an extract from the same register? Yes; and it is also a correct extract.

* See these Searches at the end of the volume.

Have you brought some volumes of the records with you? Yes.

Give me the volume which contains the signature in favour of the town of Edinburgh, 11 September, 1639. (No. 16 of productions.) Witness produced it.

Mr Robertson.—I admit this page 6 of the productions is correctly taken from the book.

Mr Innes.—Does the same volume contain the signature of the charter by King Charles in favour of the governor of Heriot's Hospital? Yes; they are both marked. (No. 21 of the productions.)

You have the volume of the privy seal, containing the precept for the same charter? Yes; and for the other; they are both in the same volume. (Nos. 17 and 23 of productions.)

Have you got part of the register of the great seal which contains the charter in favour of the city of Edinburgh? Yes; it has also both the charters, much decayed; but both are there. (Nos. 18 and 19 of productions.)

Look at the extract, (No. 27 of productions,) that is an extract warrant for sealing the commissioner's commission, 13 Nov. 1638,—is that from the privy seal record? Yes; and it is a correct extract.

Look at that extract entitled "Extract the commissioner's declaration anent the great seale, 14 Nov. 1638," (No. 28 of productions)—is that an extract from the same record? Yes.

Lord Advocate.—The object of these documents is to shew the resignation of the chancellor, and the giving up of the great seal, in November, 1638.

Mr Innes.—That is also a correct extract? Yes.

Look at these extracts, from the same record. They are extracts from the books of Parliament.

These are from a volume of the records of Parliament; and are not printed? I do not think they are printed.

By the Court.—When do these volumes begin? and when do they end? Mr Innes.—They are not chronological.

Is the record of signatures chronological? Witness.—Not exactly; none of them are chronological. I searched the whole volume of register of seals. My search is correct independently of the arrangement of the charters.

By the Court.—There are none of those volumes wanting? Just one volume.

Are they chronologically generally? There is no date of recording mentioned; and the charters are not chronologically entered according to their respective dates.

Lord Advocate.—The question of search is one thing, and producing the volumes is another.

Cross-examined by Mr P. Robertson.—What kind of book is applicable to the period? No book but the register of signatures.

Did you search the minute book of the privy seal? No; I searched the principal record, and I searched the indexes of the great seal.

And the minute book of the register of sasines, and not the original? Not the original. That is the ordinary way.

There is no minute book applicable to the register of signatures? I have only searched in the principal record of signatures. I have searched the indexes and not the principal record applicable to the sasines, which are the usual modes of search.

By the Court.—Between the dates you have given, is there any other book than those you have searched, where such things could exist? There is no other book.

You made the search effectively in all the books? My directions related to the four books.

Mr Robertson. You are asked whether any other books were applicable to the subject during that period? Not in which such a thing could exist.

Were there any books applicable to that period lost? There is part of one volume that appears to be wanting.

During what time? It is in book 57.

Mr Innes. You made a report of that in one of your searches? I think so.

Mr Robertson. Is that a limitation to the answer you gave? It is not a book, but part of a volume that appears to be lost.

Lord Advocate. Read the report. (The certificate was then read by the witness, to the effect that twelve leaves were destroyed or lost; but that they did not contain any charters, or diploma, or grant,* &c.) That is your report in reference to the lost leaves that are amissing? Yes.

Do you not find the two indexes perfectly agreeing in regard to the missing leaves. And you have no doubt respecting the result? No doubt.

Mr Robertson. Can you tell us the period to which these twelve leaves ought to correspond? Commences in 1641, 42, 43, 44, 45, and 46, the whole volume. It goes no farther back than 1641.

* See Certificate of Search at the end of the volume.

What is the date of the first entry in the volume after the twelve lost leaves? 26th February, 1642.

I want you to speak from the volume apart from the indexes. What is the first date in the book? 26th February, 1642.

There is nothing before 1642 in the book?

Lord Advocate.—It is not chronological.

Mr Robertson. — Is there any thing in 1641, after that? I cannot say.

Where is the first charter of 1641? It is lost.

The Court.—There is no reason to suppose that any thing is lost except what appears in the index.

Mr Robertson. — 1642, is the first charter entered in that book? Yes.

And the leaves that are amissing will precede that? Yes.

Have you any means of judging of the date of what is away except what is in the index? Nothing.

What does the index say? Is it applicable to this particular book or to other books? It is the index of that volume.

That is, the index of the volume that has the missing leaves? Yes.

Then it is only from 1641 here that you judge? Yes, I understand it to contain from 1641 to 1646.

Then you have no means of judging that there was any thing in this book except from the index? No.

You did not find any in 1641? I do not recollect. There may be.

How far down does that book go? This book is divided into two parts.

How far does the lost part go down? To 1645.

Well, the book that you have, which is in two volumes, commences, the first one in 1642, the last one in 1645? Yes, but the one immediately before the last one ends in 1646.

And 1645 comes after 1646? Yes.

How do you identify the index with the volume itself? You do not know that any of 1641 is in it? I could not exactly say.

I wish to know how you identify the index with the book? It corresponds with the book very nearly.

Which is the beginning of the book? There seems to be two beginnings. Which is the portion of the index applicable to the two volumes in question? This is the index applicable to the fifty-seventh volume.

What is this applicable to? To the paper register, temporary writings, institutions.

You do not know the date of the missing twelve pages yet? Some of the dates are mentioned, but not the whole. There are 1, 2, 3, 4, 5 dates in 1641, I see mentioned, and no others.

You cannot tell whether some of them might not have been dated in 1639, from the index or any other evidences? No farther than from the title of the index itself.

The Court.—It is the title that contains the information of what is the date.—He believes that title to be accurate — he did not forge it.

Mr Robertson.—I know; but we are inquiring into a very obscure matter.

Lord Advocate. — There are two things, — the one is the search of the great seal, the first thing. Then there is the blank of twelve folios, and you think you can restore that blank from the index. But independently of that blank, what you did first was to search the index of the great seal; and you certify that you searched from 16th June, 1632, till 8th July, 1710, being the date of the last charter recorded in the fifty-eighth volume, but found no charter except those mentioned. You have searched the indexes between these periods, and this is the result of the search? Yes.

Now, there is a blank in the fifty-seventh volume of twelve folio pages? Yes.

I understand the volume itself shews the blank? Yes.

And consequently, the volume being blank does not give the means of telling what that is? No.

But you are in possession of two indexes of ancient date. One of them was in the Writers to the Signet's Library, which is now in the general registry; the other always has been there? Yes.

That does not go through the whole volume? No.

In so far as the volume is preserved, it corresponds with the volume? No, there are some inaccuracies. I took a note of them.

You have another index that goes through the whole volume? Yes, and there is just one mistake in it that I found out.

Now these indexes coincide in regard to these charters that must have filled the twelve folios? They agree perfectly as to these.

You have no doubt these two indexes, the one perfect the

other imperfect, are the proper indexes of the volume? No doubt of that.

Mr Robertson.—Which is the one that has only one error? The one in the Writers to the Signet's Library.

When did it come from there? A month or two ago.

Is the Writers to the Signet's Library a proper place to keep the records of the great seal? No.

You never saw it till within a month? I never saw it till I brought it from the Writers to the Signet's Library myself.

There are several inaccuracies in the index which was kept in the office? Yes, there are four charters in the register that are not in the index.

Full charters? Yes.

Is it the one that was found in the Writers to the Signet's Library, or the one that was kept in the office that begins with 1641? They both begin with that date.

Then this is the index that was kept in the office? I presume so, there is no marking.

You spoke to this from your belief that it was the proper index kept in the office; that is, the book that begins 1641, and it was not in existence till nearly one hundred years after the register? That is the date that is upon it. We have a series of indexes in the register—this is one of a series, and in the same handwriting.

Then, is this the book that has the proper index that was kept at the time? It appears to be so, so far as it goes.

Do you believe this to have been made up from time to time? I do.

And you do not believe this one to have been made up till 1721? No.

As I understand you, apart from the one which came from the Writers' Library, you have no means of judging what the twelve leaves consisted of, excepting from your own book? None.

And there are four charters omitted in that? Yes.

During the period to which the volume applies? Yes.

The Court.—But you are certain that there are but twelve folios amissing? Yes.

Mr Robertson.—Did you ever make a search out of this book before? I never saw it nor heard of it before.

Is it in the same hand-writing with any index in your possession? It resembles very much one that we have in the office, volume 2d; it immediately follows this one.

It might have been made after 1721 also? Yes.

Then you have no index of the great seal in existence applicable to the period of 1641, excepting these two volumes which were made up after 1721? We have just these three indexes.

One of which you got from the Writers', and the other two volumes — none of which were made up till 1721; and you have the one which contains the four mistakes about the charters that you spoke of? Yes.

The Court.—The index is only of use in finding what is in the book? Yes.

Mr Robertson.—That volume is the property of the Writers still? I suppose it is.

To whom does the other volume belong? To the Register House.

The Court.—Read the title of the Writer to the Signet's one? The title of the Register is, "Registrarum," &c.

And nothing said of Mag. Sig.? No.

You know that in the progress of a charter it begins with the presenting of a signature? I cannot exactly speak to that.

The Court.—The entries in this index, as to the missing charters, are of the same appearance as the others? Just the same.

Mr Robertson.—What does this mean? "Not good," and in the same hand-writing, "William Campbell? William Smith, his book?"

Lord Advocate.—My learned friend is out of order.

Mr Robertson.—I am going no farther than I am entitled to go.

Lord Advocate.—The examination was in the hands of the Court, and Mr Robertson should not have examined again but through the Court.

Mr Robertson.—I admit that I should have put that through the Court, but I make no other admission.

Mr Robert Webster. Interrogated by Mr Innes.—You are extractor in the Signet Office? Yes.

You were directed to make a search of signatures from 1623 to 1653? Yes.

You keep your original signatures in the Signet Office? Yes; the original warrants.

They are arranged alphabetically? Yes.

Were you directed to search the book for the letter S? Yes.

Is that the report of search by you? Yes.

Read it. (Witness did so.*)

You searched both the index and the collection of original signatures applicable to that period? Yes.

And you got no such signatures? No such signatures.

Were you instructed to make a search for a signature in favour of the City of Edinburgh, in December, 1839? Yes.

You succeeded in finding that signature? Yes.

Have you brought that signature? Yes.

That has been preserved to the Office of the Signet? Yes. I have no doubt that it is an original signature under the sign manual.

Were you also directed to search for a signature in favour of Heriot's Hospital of the same date? Yes.

Did you succeed in finding that? Yes.

Mr Robertson.—Did you search in the index? Yes.

Did you get the dates furnished?

Lord Advocate.—That is very unnecessary.

Mr Robertson.—Very well.

Then you found these signatures entered in the index as well as in the bundle? Yes.

The Court.—You were furnished with a note of the date of the Charter of the Earl of Stirling that was wanted, and those in favour of the Town of Edinburgh and Heriot's Hospital; you were furnished with the whole of them in the same way? In the same way.

PETER ANDERSON, Esq. W.S. Interrogated by Mr Innes.

You are one of the agents for the City of Edinburgh? Yes.

Look at that charter under the great seal, dated 11th December, 1639, in favour of the Provost and Magistrates of the City of Edinburgh. Is that taken from the repositories of the City of Edinburgh? Yes.

It is in your hands at present, as agent for the City? Yes.

You have no doubt it is a genuine charter? It has been reputed as such.

Lord Advocate to Mr Robertson. — Do you admit it to be so? Yes.

Lord Advocate. — In the testing clause of this charter, permit me to observe, that John Archbishop Spottiswood is not a witness.

ISAAC BAYLEY, Esq. W.S. Interrogated by Mr Innes.

You are one of the agents for Heriot's Hospital? Yes.

* See Certificate of Search at the end of the volume.

Look at that charter under the great seal in favour of the Hospital. I know it; it is in my hands as clerk of Heriot's Hospital; it is dated the 11th December, 1639.

You have no doubt that it is a genuine charter? I have no doubt of it.

Lord Advocate.—We have a witness, Mr Ewart, to prove the correctness of the Latin translation.

Mr Robertson.—They are all admitted.

Mr William Whytock. Interrogated by Mr Innes.—You are a clerk in the Chancery Office? I am.

Have you had much experience in transcribing and reading old hand-writing? Yes, for many years.

Look at that document, which is an original excerpt from the charter—The document entitled Appendix, No. I. The subject of the first charter. I saw it on two different occasions.

Have you seen Scotch hands of that kind? It is not a Chancery hand; it is like the engrossing hand used in England and Ireland.

From the appearance of the ink and other matters, what would you say the age of the writing of that document to be? I could not say the age; it does not seem of great antiquity.

Is it fifty, or a hundred, or two hundred years? It is not a hundred years of age.

Is it fifty years? I really cannot say. It is not a current hand, and it is not so easy to speak to the date of it.

You observe some contractions in the writing—some alterations? There are a few.

Are these such as are in use in Scotland? I should not think so. They are not like Scottish abbreviations. "Britan:" I never saw the word contracted in that way: and farther, down "dignitem"—for "dignitatem" I suppose.

Do you observe any more? None at present.

Do you notice the word "generaliter?" Yes, I see the word *generalit*,—there is a particular mark for *er*.

Is that used there? It is not there.

These are not the contractions that you are accustomed to see in old Scotch writings? No; I am not much acquainted with English charters.

Give us your opinion as to what you can judge from the appearance of that part. You observe it is of a dark brown colour, especially outside? Yes.

Look also at that part covered by the stitching being

brought round the edge? It appears of a uniform colour,—what is under the stitching is the same.

Can you make any inference from that? What is your opinion in regard to that as a test of the ancientness of the writing? If it had been a late stitching, that part which is covered by the stitching ought to have been whiter than the rest. It seems at present to be of the same colour.

Do you notice whether the edges are fresh or sharp cut under the stitching? There is nothing except separate leaves under the stitching.

Do you observe any sharpness in the cutting of these edges under the stitching? They appear to be sharp.

The Court.—There are no whole sheets in it? There seems to be no whole sheets.

Mr Robertson.—What is it that appears whiter? The edges.

Mr Innes.—Look at some places that seem to have been erased in that document? I see several places where there are marks of erasures—one about three-fourths down on the third page—another about a third part down the fourth page—one near the foot on the same page—last word at the bottom of the fifth page—and two near the end of the deed.

These appear to have been erasures from some errors in writing? Yes.

How do they appear to have been treated after the erasures? I could not say—they have been rubbed—but it may have been to make them be written on more easily afterwards.

Do they appear to have been rubbed over with a dark substance? They are certainly soiled.

Was that of any use to make them write the more easily? I do not know.

Does the soiling occur in every instance of an erasure that you observe? Less or more in every instance.

How could that have been produced? It might have been produced by rubbing with the finger or the application of pounce.

If the erasure was made on paper of its present colour, would not the erasure leave it white at the place where it was erased? Yes.

And the pounce or other substance would not alter the whiteness? I do not think it.

Look at the marking on the margin at the beginning of the excerpt. Read the words on the margin. "Reg. Mag. Sig."

Does it appear to be in the same hand with the rest of the

page? It looks a little more modern. It is an abreviation for Registrum Magni Sigilli.

On the whole, are you of opinion, from all the marks you have seen, that that is a writing about 1723? It is my opinion that it is not so aged as 1723.

Cross-examined by Mr Robertson.—But you cannot tell of what age it may be? I cannot.

You cannot tell if within fifty years? Circumstances would lead me to infer that it is later than that.

What are they? The last question put to me as to the title on the margin, Reg. Mag. Sig.

What is it? Because I am not aware that it was ever the name given to the record of charters till they were bound up by Mr Thomson.

Independently of that, is there any thing else that leads you to suppose it is not more than fifty years? The words that are written in larger characters than the rest are written in a sort of German text, such as might be used at the present day.

But you are not acquainted with the writings in Irish or English deeds? Not particularly acquainted. It is liker the writing employed in the specifications of patents than the Chancery hand.

You have no acquaintance of English or Irish writings of that period? None.

And your only acquaintance with English or Irish writings is from seeing these specifications of patents? Chiefly.

Then holding this to be an English or Irish paper, and putting out of view the marking about the great seal, is there any other circumstance that can lead you to say that it is not a hundred years old? I could not swear by any means that it was not a hundred years old, but it is my impression that it is not.

But is there any other circumstance that would lead you to suppose that it was not? I could not say that there is, apart from the marking of the great seal. I could not swear it was not of that age.

And you have no acquaintance with old Irish or English papers? I may have seen them.

They do not fall within your ordinary business? They seldom come in my way.

You said, that if the erasures had been made on paper of the present colour, the whiteness would appear? I said probably it would.

There is no such whiteness? No.

The Court.—Is the marking on the margin apparently in the same ink as the rest? I should think it is a shade darker.

Mr Innes.—The white marks that you say would occur in erasing, you think might have been artificially coloured? All that I can say is that, on marking an erasure, it would be natural to rub it to make it write better.

Mr Robertson. You hold that one to have been rubbed and corrected like any other paper of the same kind? Yes.

Mr Alexander Macdonald. Interrogated by Mr Innes. I am a keeper of the record of deeds in the Register House, Edinburgh. I have been about thirty years employed in the Register House, under Mr Thomas Thomson. I was clerk to Mr Thomson when he began binding up the records of the great seal. I entered in the year 1808.

What was the old backing of the registers of the great seal? Charters, book I. book II. and so on.

Have you preserved any of them? We have preserved the boards of three of the old volumes by accident.

Are these backed as you mention? They have served as portfolios since 1808; and on two of them in particular I find the backing.

Do you observe how what is called the register of the great seal, is quoted by writers of the last century? "Great Seal Book," "Records of Parliament," "Charters under Greal Seal," and "Charters."

Have you ever seen it quoted Reg. Mag. Sig.? Never before the records were bound up in 1808.

Have you turned your attention to the volume 57? I have examined that volume very particularly. There are twelve leaves wanting in it at the beginning.

You have access to certain indexes, which, when taken together, agree in giving you the contents of the missing volumes? Yes.

Were you enabled to trace any considerable number of those missing charters? The missing leaves form the beginning of the 57th volume; there are thirty-two charters, diplomas, and patents wanting; this I found out by both indexes.

What do the instruments consist of? Treaty between England and Scotland, ten diplomas of patents of honour, and one *Litera Rehabilitationis* in favour of Patrick Irvine, and twenty ordinary charters.

Of what dates were these charters? I have traced about nineteen of them between September, 1641, and February, 1642: the missing charters—not diplomas.

By the Court.—Diplomas do not include lands? I should think not.

Mr Innes.—Is there amongst all these any in 1639? Not one.

In the previous volume, 56, are there a great many of that date? Yes; there are fourty-four.

How many are there in the month of December, 1639? Four.

Are you aware that one of these is in favour of the city of Edinburgh, and another in favour of Heriot's Hospital? Yes.

Do you find that there is any of them witnessed by John Spottiswood, Archbishop of St Andrews? No.

Have you searched for the occurrence of such a witness at that date? I have.

What is the latest occurrence?

Mr Robertson.—My Lord, he is now going to speak of something that is in the charter or not in the charter. The better way would be to produce the charter itself to prove the affirmative or the negative. My learned friend is now going to ask whether the witness has searched the records, and whether the same person is not a witness to certain other charters. I apprehend this is irregular. Suppose my learned friend had put the question, "Do you find in 1638 Archbishop Spottiswood witness to any charter?" I apprehend it is clear the Court would not have allowed that question to be put, because the best witness to his name being witness to a charter, or register, is the charter, or register itself. We ought to have the whole register, or to have notes of what parts of the register are to be used against the prisoner. The charter is the best evidence of what it contains, and what it does not contain. The question to be put, is, whether Archbishop Spottiswood is there or not there, and the best answer is to be found in the register itself. This witness is not even keeper of the register. He is a person who has searched, and he is asked if he has not found a particular name. I submit that, by the rules of the law of evidence, you must have the best evidence which the subject affords. Why did not this gentleman make a regular search, and let the search be produced as in other cases? My learned friends produced searches proved by Mr Robertson. I say they

ought to have produced the regular search. He is asked if he could find Archbishop Spottiswood's name at a particular period. They ought to have given in this search. The searches of Mr Robertson were produced, because they could not produce the register themselves, to direct our attention to that search, to see if they were correct. But here, without notice or productions of a search of any kind, they put a witness into the box, and, after telling him about Spottiswood, they say, Do you find this name witnessing a charter of a particular date? I submit that the question is one which your Lordships will not sustain.

The Lord Advocate.—I want to prove, that, in the year 1639—and those charters and records were searched for the purpose—the name Spottiswood does not appear as a witness in any one of them, and I find he does not; I want to ask the same question as to 1638, and I do not see any objection to this.

Mr Robertson.—My learned friend ought to have produced the register which contains these years; it is only one volume that is already proved.

Lord Advocate.—If the books are here, what objection can you have?

Mr Robertson.—That alters the question, which would do away with my objection. The best evidence is the volume itself.

The Court.—Do you not say that your objection is done away with?

Mr Robertson.—I am misunderstood by one of your Lordships. My objection is not done away with, because it remains undisposed of; but it is unnecessary to be discussed if my learned friend withdraws the question put to the witness, and offers to prove the fact by the production of the register.

Lord Advocate.—The witness is there who is to explain the register himself.

Mr Robertson.—I understood that the witness was to speak from a search without the book being here.

Lord Moncreiff.—The objection is at an end.

Mr Robertson.—I had no notice of this search by Mr Macdonald.

Lord Advocate (to the witness.)—You have the record there of the Great Seal from July, 1638, to December, 1639, vol. 56. You have looked into that volume for the purpose of ascertaining whether Archbishop Spottiswood was a witness.

Do you find him a witness to any crown charter from 1638 down till 1639? On the 14th July, 1638, he appears as a witness for the last time.

Mr Robertson. — My learned friend is now proceeding to state the contents of the register, and to ask the witness whether Spottiswood's name is not there; now that volume of the register is not libelled on, or produced in the Justiciary Office, and is not mentioned in the inventory of the productions.

Lord Advocate. — No. 18; it is not a volume of the register.

Mr Robertson.—You say it is No. 18. Begin at No. 15, "Extracts from Original Signature in favour of the City of Edinburgh, of the Burgh of Regality of Canongate, 11th Dec. 1639." I say that is held to be produced, because they could not get it from the Register Office. All that is produced of No. 18, is part of the register of the great seal, which contains the said charter, or certified copy thereof,— no other part is produced. It is volume 57 that contains the charter, and it is volume 56 that the witness is looking at; and we are now to get something proved out of the register that is not produced.

By the Court. —Witness says, that the charter is in that very volume.

Lord Advocate. — There are two charters, one in favour of Edinburgh, and one in favour of Heriot's Hospital.

(To witness.) There are in that book before you other charters, in 1638, of a subsequent date? Yes.

There are charters in it of 1639? Yes.

And in none of these charters of 1638 and 1639, subsequent to 14th July, 1639, do you find the name of Spottiswood? No, the name is not found after 14th July, 1638.

How is Spottiswood designed on 14th July, 1638? "Testibus reverendissimo in Christo patre et predilecto nostro consiliario Joanne miseratione divina Sancti, &c. &c. nostro cancellario," &c.

It is very common, I believe, in the records of the great seal, that the testing clause is not given at full length? Yes, very common. It is given in full length in some, and in some others it is given by a reference to *witnesses as above*.

How many charters are there in that volume 56, in which the testing clause is given in full? Nine.

Which is the first? No. 80, in point of date, in which the clause is full; its date is 14th April, 1631.

Is Spottiswood a witness there? No.

What is the next? 83, in point of time; date, 6th July, 1635. He is a witness in 1635.

How designed? "Reverendissimo nostro, &c. &c. nostro cancellario." The next is 31st July, 1637; he is a witness there, and described in the same way. The next is 16th January, 1638, the first of the volume; he is a witness also there, and is described in the same way. The next in point of date, is 5th March, 1638; and he is here described a witness in the same way. The next is 14th July, 1638, also where he is still a witness, and described in the same terms. The next is November 20, 1638.

Is he a witness there? He is not. The next, with a full testing clause, is January, 1640. He is a witness there.

These are the charters in which the testing clause is full? Yes.

It does not appear, in the shorter mode, that in any of the charters he was a witness subsequent to the 12th July, 1638? Certainly not.

The reference *ut supra* does not make him a witness at a subsequent date? No.

Are there any intermediate charters between July and November, where the testing clause bears *testibus ut supra?* I cannot tell.

Have you any reason from that book to suppose, that subsequent to 1638, Archbishop Spottiswood was a witness to any royal charter? No.

Read the testing clause to the charter November 20, 1638? Testibus, &c.

In other charters where the testing clause is not complete, how are they entered? Uniformly, "Testibus ut in aliis chartis consimilis dati."

That is to say, witnessed by the same, as in other charters of a similar date? Yes.

How many charters are under the great seal in December, 1639? Four, and forty-four in the whole year.

In volume 57, there is no charter of 1639? None.

Mr Innes.—There was no Chancellor from 1638, till September, 1641? No.

And during the intermediate period, with others that discharged the duties of the office, there was the Marquis of Hamilton? He stands first as a witness in the charter, without the title of Chancellor.

You have now before you a document, Excerpt from an

original charter of Novodamus of William Earl of Stirling, No. I. in the Appendix. You observe the marking in the margin of it, — is there any difference in the writing on the margin from that in the body of the document? It would appear to me to be modern writing — no later, perhaps, than thirty years.

What is your reason for believing so? In a great measure from the title *Reg. Mag. Sig.* lib. 57.

This is not an ancient way of describing a charter? I never saw it till 1808 — it was introduced by Mr Thomson.

What is your opinion from the appearance of the ink, and character of the hand-writing? It is a hand-writing that I never saw in Scotland.

Do you observe it in reference to the ink and the colour of the paper? The colour of the paper seems darker, the excerpt is written on distinct leaves, and the part folded under the stitching is of the same colour as that of the body of the paper, which is more exposed to the air.

The Court. — You say it is written on distinct leaves, what do you mean by that? It is not written on sheets.

Mr Innes.—Do you observe some erasures running through it? There are occasional erasures.

Do these present any thing noticeable to you? What are these black spots owing to? They are just to give it the appearance of an older writing.

Do you mean that the erasures were made to give it an older appearance? It might be.

Do they appear to have been studiously and intentionally done at these places? The appearance of the last one is of a very suspicious character.

Have you any reason to say that there is any difference in the hand-writing on the margin, and that on the writ? I can see no reason for saying that they are not in the same hand, either from the shape of the writing, or the colour of the ink. I think they must have been made at the same time. The colour of the marginal note is the same with the colour of the text.

Turn to the end of the charter, and look at the testing clause, who is the first witness to that testing clause? John, Archbishop of St Andrews, Chancellor of Scotland, dated 7th December, 1639.

And for a year and a half before that date, he does not appear as a witness in any crown charter? No.

Look towards the end of the charter; you observe it is the

testing clause of a finished charter under the great seal? Yes.

Look at the bottom of it; you observe the words, *Gratis per Signetum;* are these words applicable to a great seal charter? Certainly not.

What would this lead you to believe? That it was a precept from the signet office to the keeper of the privy seal.

Per Signetum marks the warrant under which the writ subsequently follows? Yes.

Are there any instances of a privy seal writ being brought at once from the signet, and offered to the great seal? Certainly not.

The Court.—The great seal would not acknowledge the privy seal? No.

Mr Innes.—And prior to the time of Mr Thomas Thomson, it was the custom to carry writs by the privy seal to the great seal, so that you might have a signature to the warrant of the great seal? Yes.

But you could not have a signet warrant? No.

Is there any authentic instrument by the law of Scotland in which she does these two things, that are found in that writ? giving a full testing clause applicable to a finished crown charter, and the words "*Gratis. Per Signetum?*" Certainly not.

Have you any doubts whether or not it is a genuine copy of a genuine charter in Scotland? I would say it is not a genuine copy of a genuine charter, and not a genuine copy of any writ that ever existed in Scotland.

Have you any doubt about it? No doubt.

Cross-examined by Mr Robertson.—You said it did not appear to be older than thirty years? I would say between twenty and thirty years.

It does not bear to be a full copy? It is only an excerpt.

Did you say you thought the erasures were made on purpose, or might they not have occurred in the course of writing? They may have occurred in the course of writing.

You have not much acquaintance, I suppose, with the Irish and English writings of this kind of hand? The only writings approaching to it that I know are specifications from the patent office in London; but of the Irish writings I know nothing.

You do not think that *Reg. Mag. Sig.* is a shade darker than the rest of the document? I thought not.

You think it is of the same colour of ink as the rest? Yes.

In forming your opinion that it is not a genuine copy of an

instrument of that date, you attach considerable importance to this marking, as being not of the date, but long subsequent to the date of the charter? I attach importance to the writing altogether.

There is no subscription of any name being annexed to the deed at all? There is no name of Spottiswood, or any other name attached to the paper? No.

They are official persons named at the end of the deed; but they do not subscribe? They are, and they do not subscribe the charter.

What was it you said was suspicious at the end of the deed? The blackening over the *er* in the words *Per Signetum*.

Does that appear to you to have been done at the same time as the rest of the letters of the same word? I cannot say that.

Then what is it that appears to you to be suspicious? The blackening round the words, the darkness of the paper, not the writing.

You do not attach importance to the P and S, appearing to be painted over more than the rest of the writing? No, I do not; it is the *Per Signetum* that I attach suspicion to.

Is there any erasure at the *Per Signetum?* I do not think it; there is a blacking of the letters P and S.

But you attach no suspicion to the blacking there? No.

And there is no erasure on the last page? There is no erasure, no word taken out and another substituted; but there is a little rubbing.

Shew me any erasure in the second last page of the deed? I cannot see any on that page.

Look at the last word on the fifth page; do you observe any erasure there? There is a blotting at "*successoribus.*"

Is there any erasure? I think at the first c the clerk had intended another letter; and I think the first s has been scraped.

And that is all? Yes.

Shew me any erasure you can point out at all in the deed except that s. I would say the word *sese* in the third page is an erasure, the whole word has been erased and written over. There is a hole through it, I think. I can see the Jury through it.

The Lord Advocate.—The Jury *will* see through it.

Mr Robertson.—I hope so.

Let me see any more of these erasures. At the bottom of the fourth page there is an erasure, the letters *eck*.

Is there any thing in the circumstances of the erasures that creates suspicion; or might they have occurred in the course of

writing? No; they might have occurred in the course of writing.

Supposing that it had wanted the *Per Signetum* and the testing clause, and the name of Archbishop Spottiswood, what circumstances would there be to induce you to think that it is not a genuine copy in the Irish hand-writing, you being totally unacquainted with the Irish hand-writing? I am totally unable to answer the question.

The Court.—He said, taking the whole of the writing put together, it did impress him with the belief that it was not a genuine document.

Mr Robertson.—But, my Lord, I put the question to him distinctly. He knows of no other circumstance.

The Court.—Looking at the whole deed as it is, with all the circumstances described, the writing, the appearance, the title, the *Per Signetum*, the testing clause, you said it was not older than 30 years,—are you confidently of opinion as to that? I am, that it is not more than 30 years old.

What think you of the paper? I think the leaves might have been cut out of a book, from the circumstance of their not being written on sheets.

Can you speak to the age of the paper? No, I cannot.

You are acquainted with old writings, and you have seen paper that had become of a tanned colour by usage, and otherwise; does it appear to you that the paper on which that document has been written, is that which has fairly attained that colour, or has it been superinduced upon it by any particular preparation? I cannot answer that, I cannot give any opinion on the paper. The two last leaves are pasted together.

When did you first see the writ? When it was laid before Mr Thomson, nine or ten years ago, for his opinion.*

* At this stage of the proceedings there occurred "ane pleasant interlude," not unworthy of notice. Mr James Ferguson, clerk of session, made a personal motion to the Court, to the effect that his evidence (merely official) might be taken at that time instead of in the order assigned to him in the list of witnesses, on the ground that his presence was required as a voter in Ayrshire. The Court properly remarked, that such an application could only be entertained by the *public prosecutor*. When the Lord Advocate, who had but a few minutes previously returned from his unopposed election at Leith, declared, that "the case was so complex, he could not accede to Mr Ferguson's request, by taking him out of the order assigned." Mr Ferguson, we believe, would only have added one to Lord Kelburne's small majority of 462.

RICHARD MACKENZIE. Esq. W.S. Examined by the Lord Advocate.—You are a writer to the signet in Edinburgh? Yes; I have been 36 years in the profession.

You have an extensive knowledge of the profession? I ought to have.

You are deputy keeper of the signet? Yes.

You have attended to the course followed in passing crown charters? Yes.

From the earliest writ down to the concluding charter? Yes.

There are some differences or omissions in the course of doing that now, from the course that used to be followed in the middle of the 17th century? In 1809 a change was introduced.

You are acquainted by reading with the records of 1639? Yes; I have examined the records. I have read Hope's Minor Practicks in the time of Charles the First, in which the process is particularly mentioned.

What was the course followed in passing a crown charter from the original signature downwards, where it contained a grant of lands as well as of honours? The mode to follow is, to give the signature into the Exchequer; the signature is given in along with the titles shewing the right of the person in whose favour the signature is given. Then, on the day appointed, a writer to the signet attends with the writ and titles; he shews that the said lands are given out, and he also attends to the return paid to the superior for the land.

It receives the sign manual? If a new grant.

Then it requires to have the sign manual? The cachet is not sufficient.

Then there is a record of these signatures kept in the Exchequer? Yes.

The signature itself is carried to the signet? Yes; and the signature is retained by the signet as a warrant for what the signet has to do.

And what the signet has to issue is an order to the privy seal? Yes.

There is no record in the signet of the precept that the signet issues? None. The signature being presented to the signet, the signet issues its precept to the privy seal, and the signature is retained in the signet as the warrant of what the signet has done.

The signet precept is carried to the privy seal; but in the

privy seal you have a record; and the privy seal issues its precept to the great seal? Yes.

Then the privy seal retains the signature as authority, but records its own precept at the time it gives it? It records its own precept.

The signature is retained at the signet, and gives out its own precept? Yes.

And at the great seal the charter is completed? Yes.

What is done with the privy seal precept in the great seal? The signet and deputy keeper used to keep it, and several of the precepts have been given to the general record.

But the great seal not only gives out the charter, but records it? Yes.

So that you have the record of signatures, the regular record of the privy seal, and the regular record of the great seal? Yes; these three records existed in 1639.

And no charter with lands and honours could be regularly completed, without passing through all these? No.

The forms of the charter ultimately granted is given in full length in the signature? Yes.

The warrant of the signet is just a repetition of the signature? Yes; with a very small exception.

In the course of that process the precept and signet pass into Latin? Yes.

And then the variation is, that these subsequent precepts contain a mandate to the seal? Yes.

What sort of testing clause is there at the signature? No clause at all; there is a date given so and so; for instance, at Whitehall or Edinburgh, or any of the royal residences at the time.

Then in the signet precept it is the same date? Yes; and it is the same in the privy seal precept.

You do not find the full testing clause till you come to the completed charter? No.

That was the course followed in 1639? Yes.

Look at this charter? (excerpt libelled.) I have seen it before; I read the printed copy; I have some notes in regard to it.

Look at page six of the document. You see it appears to be a signature? Yes, it is an original grant.

Look at the note "Given at his Majesty's court;" that is the ordinary way in which these signatures conclude? Yes.

Pass to the foot of page 7; is that the ordinary way in which a precept is produced? Yes, the ordinary way.

You observe there the *per signetum?* Yes; the meaning is, that this expresses the warrant on which the privy seal precept proceeds. I mentioned that I had the information from the record, and partly from the warrants, and partly from Hope's Minor Practicks. The *Per Signetum* is an abbreviation of the lengthened expression *Per Signaturam*, &c.

You have seen the writ libelled on. Did you observe any thing particular in it? At the end of it I noticed *Per Signetum*, which could apply only to a precept issuing from the privy seal; while we have here a full testing clause, which could only be got from a charter which had come out from the great seal. The full testing clause is never found but in a completed charter.

Could these two things exist together in any writing or instrument of authenticity according to the law of Scotland? It appears to me that they could not.

Have you any doubt about it? None.

Then is this document, which you now have before you, a copy of any thing that could have been genuine or authentic by the law of Scotland? No, I have no doubt as to that.

Do you observe any thing else remarkable in the writ? I observe the word *gratis*. It is possible that the word might come there, but not likely. If it were in favour of a writer to the signet, "*gratis*" would have been proper enough; but the *Per Signetum* is officially impossible to be there. Another observation I have to make on this writ is, the *Reg. Mag. Sig.* on the margin at the commencement.

What is that? I could not have answered that question a month ago. I called on Mr Thomson to inquire of him the meaning of it.

Did you know that it was a reference to the great seal record? No. I thought myself very stupid in not knowing it.

That is not the way in which the great seal record was referred to generally? No. In a book, the second edition of which was published in 1813, I found the Reg. Sig. Mag.; I went back to the first edition, and did not find it; I found instead, "Chart. in Archivis."

Does any thing farther occur to you? Nothing in particular professionally.

Is there any thing that leads you to suppose that it could not be a complete copy? Yes, it wants something particularly; it wants the Reddendo.

Explain to the Jury the meaning of the reddendo? It is that part which specifies the return that is to be made. There

are two things the Barons look to, namely, to see that the description of the lands to be given up is the same contained in a former grant which the writer points out; and next, to shew that the reddendo or return payable to the crown is particularly inserted. Sometimes it is in money, sometimes in feu-duty, and sometimes in oxen; but this writ has no reddendo.

Does any thing else occur to you? Yes, in making my notes upon it, I found that there were several resignations in it; but we have no note of the dates of the deeds on which the resignations proceed. In regard to one of them, the barony of Tillicultrie, which belonged formerly to William Earl of Stirling, and his son, then deceased, in fee, it is said that the barony was resigned by William Earl of Stirling, and William now Lord Alexander, that is to say, by the father himself, and by the grandson in the fee, in favour of the said William Earl of Stirling, and his heirs, and there is no mention how the son acquired a grant to the land. That is a great defect.

Do you observe any thing particular about some of the lands granted there, — their locality? There are grants in America and Nova Scotia, and other lands.

Do you observe any thing in regard to New England? Yes; "and in like manner the whole part of the main land of New England, beginning from a certain place called or known by the name of St Croix, near to Nova Scotia aforesaid, and thence extending along the sea shore to a certain place called Petnaquine, otherwise Pemaquid, and so along the river to its utmost source, as it tends northwards," &c.

Did you ever know any charter under the Scottish crown giving lands in New England? Of course I know nothing of the kind.

Cross-examined by Mr Robertson.—You say there is no reddendo? No.

Is it a copy of a charter that is before you, or does it bear on the face of it that it is an excerpt? It is an excerpt.

Then being only an excerpt, were there nothing else in the writ to cause you to suspect it, would you think that its containing no reddendo rendered it an improper writ? The existence of the reddendo is not necessary to the accuracy of the excerpt so far as it goes, and neither is the *Quæquidem.*

Supposing the *Per Signetum*, and the *Reg. Sig. Mag.* were away, what remains suspicious, holding it to be only an excerpt? What I mentioned as to the resignation of the lands of Tillicultrie: nothing else.

The *Reg. Sig. Mag.* is on the margin, and forms no part of the body of it, and the *Gratis per Signetum* is at the end, and not engrossed in any part of the deed? Yes.

Supposing the *Reg. Sig. Mag.* and the *Gratis Per Signetum* away, and the paper only an excerpt, what remains suspicious in it? What I mentioned about the resignation of Tillicultrie.

Then how should it have read here? It would not have read at all.

Then, with these exceptions, there is nothing in the writ suspicious? Nothing else.

Re-examined by the Lord Advocate.—You think New England in the writ a strange thing? Yes.

Mr Robertson.—You think Canada a strange thing too, do you? I ask you, does the testing clause at this excerpt bear to be subscribed by any one? No.

The Court.—Did you, in the whole course of your reading of charters, ever see an address to a commoner as "*nostro consanguineo?*" It is repeated twice, at least, to William Lord Alexander, son of the Earl, now deceased, and he is a commoner? I remarked that, and thought it not correct.

Did you ever see it any where else in your recollection? I have no recollection of seeing it any where else.

Have you ever seen a writ of novodamus where there was a grant of honour along with land? No.

Have you ever examined the Roxburgh charters? No. I might have seen them without examining them.

Thomas Thomson, Esq. Deputy Clerk Register. Examined by Mr Innes.—You have seen that writ before? Yes.

How long have you been Deputy Clerk Register? Since 1807.

You have the superintendence of the whole national records? I act as deputy to the Lord Clerk Register; whatever power he is competent to exercise is given to me.

You have had a long acquaintance with land rights and charters? I certainly say so, with the records of this country, particularly with records of land rights and charters passing under the seals.

Mr Robertson (*in initialibus.*)—When did you first see that writ? I cannot venture to say the exact year, but I was at one time consulted by Lord Stirling professionally.

Was it in the course of being so consulted that you first saw it? Yes.

Did you see it on more occasions than one? At the dis-

tance of ten years I hardly can say, but it was in my possession a short time.

Was a case laid before you for opinion? Opinions were taken from me, whether verbally or written I cannot say.

But you gave some opinions, either verbally or written, in regard to the subject matter of that deed? Yes.

Who acted as agent for Lord Stirling at that time? Mr Lockhart.

How long did you continue to act as counsel? I cannot answer that question, but I had repeated interviews with Mr Lockhart under that charter. I daresay there were other points that were brought into my notice.

Suits and interests arising out of the matter? At that time there were no suits.

But with a view to the institution of suits? Yes, perhaps.

And with a view to ascertain the nature and extent of Lord Stirling's rights, if he had any, under that? I would say so.

I object to any question which may tend to encroach on that confidence which exists between counsel and client.

Witness.—I know my own duty.

Mr Robertson.—I am perfectly aware that you do; but I make this observation to prevent any unnecessary questions being put.

The Lord Advocate.—It is admitted by this examination *in initialibus*, that there did exist a relation of confidence between the witness and the pannel. It is no objection to the admissibility of the witness; it may be an objection to certain questions being put to him.

Mr Innes.—I will not ask you any question in regard to the opinion. Explain to the jury the progress of a writ, from the first signature to the completed charter under the great seal, such as it was before the recent change took place.—When such a charter was granted, of which this is said to be an excerpt, it was very regular. First, certain grants could only have been instituted by an actual signature under the sign manual. In another class of grants, where a more artificial but less formal method was adopted, such as stamping, which was called the cachet, in all grants that contained any thing new or beyond privileges, and powers, and honours, in former grants, the signature of the sovereign was indispensable, and it would have been a treasonable act on the part of advisers to permit any such grant without the sign manual. Having obtained the signature, that signature was addressed to the keeper of the royal signet, directing him to issue a precept,

which was addressed to the keeper of the privy seal. In that precept the signet and tenor of the future charter was repeated. It was addressed to the king's privy seal keeper; he was authorized to prepare a precept to the keeper of Chancery, requiring him to expede a complete charter in terms of the original signature. In going through each particular step, the warrant by which that step was taken was apparent on the face of the document. In the case, for example, of a signet precept, which proceeded either on a signature, or sign manual, or under the cachet, the precept issued at the privy seal was issued *per Signetum*, either by the hand of the king or the artificial stamp of the king's name. Then that passed to the signet office; the document which issued from the signet office was carried to the privy seal, and the privy seal precept was issued in terms of that precept. The *Per Signetum* is the mode in which it was generally done; then that passed into Chancery. Then there was a separate class of procedure; grants under the great seal, which were peculiar, and grants, for example, of an honour; these did not pass through the intermediate steps of either the signet or privy seal, but passed with one leap into Chancery.

Was there any process at all, or any mode by which in any circumstances a signet warrant could get into the great seal? Impossible.

Will you look to the end of that document in your hand; you observe *Per Signetum;* from that conclusion alone what should you conclude to be the nature of that writ? I would consider the writ proceeding on a precept in the signet, and therefore a privy seal writ.

If you were confining your attention to these words at the foot of the last page, you would say it was a privy seal precept proceeding on a signet warrant? An extract from the record of the privy seal, perhaps. The record under the privy seal would term it so.

So you would say it appeared to be a copy from a deed of the record of the privy seal? Yes.

Look at the testing clause. What do you judge from the form of that testing clause? I would say it was the first precept I ever saw with a testing clause of that kind. In every stage of the charter the date is the same in the intermediate stages; it would be the first specimen I had ever seen either in a signet precept or a precept under the privy seal.

Are you acquainted with any authentic writ in all Scotland which could combine these two different parts, full testing

clause and *Gratis per Signetum?* It would be quite unknown to me; I never saw a testing clause like that in a precept under the signet.

Turn to the beginning of that document. The marginal note on the first page "Reg. Mag. Sig." that is the present mode you have adopted of referring to the register? I believe that mode was first begun by me, when I had the whole records examined and put into good order, and rebound. It was about 1806 or 1807 when the operation began of rebinding the record, and that particular title was adopted by me for the first time.

You found in the course of your experience various ways of titling? Yes, very loose ways; for example, one entitled, "Charters, Book 10—12," &c. The modes of reference were very various; there was no uniform or technical mode.

Invariably, now, when any extract is desired from the record, it is expressly said to be from *Reg. Mag. Sig.*? I think the keepers of the record have uniformly adopted that mode on the margin.

Do you observe these red lines round the margin of that excerpt; what are these like? Are they used in Scotland? I know that in the precepts of signature, the margin is of this kind; that is a system that was not introduced till 1780.

Did you direct your attention to the writing paper, and the colour of the ink? Give the jury your opinion as to these. This has very little the air of an official excerpt at all; there is no attestation by any official person; it is an attempt at a copy; an attempt to abridge a longer document by omitting clauses.

Any remarks on the writing? The writing is not chancery hand, nor any hand used in the Register-house. I should have said first, it must have been made from the record since 1806 or 1807. The appearance of the paper is old, whether from age or artificial means, but the writing itself appears not older, if so old as that; the paper is older, but whether darkened by age or artificial means I cannot tell.

Does it appear to you that that is the appearance it would have had if it had been written on paper before it had been browned, and the browning come on along with the writing of it? It is the glaring contrast that leads me to say, that however old the paper may be, the writing is not so old as the paper. There is a brilliancy and freshness in the ink, which leads me to say, that no colour had been put upon it.

Do you observe the way in which it is stitched? Do you

observe that the outer leaf is brought round, and stitched over the remaining leaves? It has been so, forming a sort of binding on one side. Another singularity; it appears to be written on single leaves, and if I am not much mistaken, they appear to have been recently cut away, either from a book, or from the corresponding leaves.

Do you observe the colour of that part of the paper which is covered by the stitching? The colour is uniform all over.

As if it had been browned before the stitching? There is no difference in any respect from the other part of the paper; the probability is, this part would have been brown, and this other part would have been protected.

You are aware of a defect in the record of the charters? A defect that must have existed as far back as 1760 or 1756.

You are aware that there are earlier indexes than that; are you enabled from them to fill up the gap to ascertain the charters in that missing part? These indexes are the operation of inferior officers in the department, and are liable to greater or less imperfection and inaccuracy, as their talents or abilities may have occasioned. I have in my possession what I dare say was an official index, but it came down only to the year 1596, which plainly appears to have been manufactured in Chancery, and which had wandered abroad. I do not know that there exists an earlier index than one which I think must have been formed about the end of the seventeenth or early part of the eighteenth century.

The indexes supply the defects in volume 57? I ascertained that there was a defect in the beginning of that volume, and that there was no other clue to the contents of these lost charters, but those indexes, one of which remained in the Register Office.

Are you aware that there are two indexes, one belonging to the Register-house, and one brought from the Writers to the Signet's Library, and that these concur and give the same statement? Yes, I have examined them myself. The one brought from the Writers to the Signet's Library had wandered out of the Chancery Office, and is, in fact, one of a series of which we have the other parts.

From these two indexes, can you fix the precise charters that existed in that volume? Holding them to be accurate, they fix it to that extent certainly. But there is a great distinction to be taken between those indexes formed *ex post facto*, and those books called minute books, which are necessarily part of the record to which they belong; where, if any

thing is wrong, it must be because of some gross fraud or negligence.

We have had a search by the proper officer in regard to the great seal. Supposing any such charter in the great seal, where would you find trace of the charter? To go backwards to the register of the privy seal; from that back to the register of signatures and exchequer register, which come down to 1660, which is a register of signatures, is one of the necessary steps. There is still another place where such a writ might be found, in the Signet Office, that I mentioned, among the original signatures; there is no other record kept at the Signet Office.

How many registers were there altogether? There may be said that there are four, but three properly so called, great seal, (going backwards,) privy seal, comptroller's register. Then what I do not call a register at all, is the original signature, preserved in the signet office. They have no record, but keep the warrants.

Is there any reason, at the date of that charter, for supposing that a charter that passed, and was an existing writ in Scotland, should not be in any of these registers? I am not aware of any great imperfection, but the record of charters is in some respects incomplete, and that particular volume is defective. Some others are injured by damp, but the privy seal and comptroller's record are quite complete at that period; no volumes lost, nor any mutilation in any of the volumes. They were in full operation till the act of Parliament, passed in 1809, which enabled a party to pass over the privy seal record altogether, leaving behind the ordinary office, and carrying the signet precept directly into Chancery.

The signet precept now does operate in Chancery? It does under the force of that act of Parliament since 1809.

If you were told a certain charter was not found in any of these registers, and that charter alleged to be of date 1639, should you consider that a strong presumption against its existence? Certainly a presumption, but not more than a presumption; for there are possibilities of inaccuracy, but I have reason to believe of the greatest possible rarity; but I would not believe that such a charter existed, unless it was produced.

Taking the appearance of that writ, and its various peculiarities, should you say it was not genuine? I have said that nothing short of a genuine charter could counteract the non-appearance of that charter in any of these registers.

Lord Advocate.—I understand you to have said, that from the circumstance of the full testing clause found at the end, joined with these words, *Gratis per Signetum ;* you are satisfied it could not be the copy of a genuine and authentic writ? I have said that. It could only have been the production of some ignorant person, grossly ignorant of the form of deeds in the Scotch law, attempting to manufacture deeds of this nature.

You said that it had been brought to you by Mr Lockhart, the agent for Lord Stirling? Yes.

The Court.—Mr Thomson will observe, that this deed contains a grant of honours, as well as of landed estates; now, observe there is here given a grant of honours from a particular deed. Of course, you are perfectly acquainted with deeds of this description; I wish to know if, in the whole course of your experience, and seeing such documents, you ever saw one with a retrospect in conferring the novodamus? It would be too much a matter of course to require that grant, and there is no such in the Roxburgh cases.

Are you aware, whether in any deed you ever saw, that it came addressed to a commoner by the style of "consanguineo nostro?" That is quite singular.

Do you observe that that is in this charter? Once or twice at least. Certainly that is not the regular style.

Was New England ever held to be a parcel of Scotland? No; under a genuine Scotch charter I should hold such a grant *pro non scripto.*

There are a good many charters where grants are made in Nova Scotia? Yes.

Did you ever see a charter without a reddendo? No; but many excerpts of charters where the reddendo was omitted.

The Lord Advocate.—William Lord Stirling was distinguished in his day? Highly so.

A man of great talent? Yes.

And attentive to his own interest? Yes.

Not likely to have got charters of such immense importance as these, and not to have seen them properly carried through the seals? He was a very old man, but it is not likely that he would neglect to have them expede.

The Court.—Here the keeper of the privy seal was secretary of state at the time.

Dr Andrew Fyfe being called.

The Lord Advocate.—Dr Fyfe is a scientific witness.

Application was made by the crown, that a scientific gentleman should be called in, to make certain experiments in regard to these documents, to shew whether they had been tampered with, or whether the ink in which they are written was different in its composition from ordinary ink. I want to know whether my learned friends have any objections to let him have these documents for the purpose of experimenting on them.

Mr Robertson.—I was not aware that any motion of this kind was to be made to your Lordships.

The Court.—We have authorized experiments to be made on the stomach of a person said to be poisoned, and what objections can there be to allow the documents to be experimented upon in a way not to injure them.

Mr Robertson.—I must oppose this motion. I do not know the ground on which that is asked: nor do I know the particular case to which you refer.

The Lord Advocate.—If you place the documents to be operated on under the care of an officer, can there be any objection?

Mr Robertson.—The proposal is, that two scientific gentlemen shall take with them two of the documents,—my learned friend said the charter and the map which contains all the French documents,—charter No. 1, and French documents on the back of the map, nine in number, in all ten documents. The map and charter, that is to say, what contains nine documents. A great deal of the evidence, some of which we have already had, turns on the appearance of the document itself,—on the shade and colour of the ink: we have already had evidence on these; we may have other evidence for the prisoner. And I must say, that if you begin chemical experiments on these documents, which may alter the appearance of the documents, this appears to me to be a proposition for which there is no authority, and which is not consistent with the rules of justice, as applicable to such a case. They charge us with the direct act of forgery of all these documents; they are to prove the forgery. A great part of the evidence, as yet, arises from the appearance of the documents themselves. Certain I am, we are prepared with other evidence on the appearance of these documents; but how it is to turn out if the whole appearance of the document is changed, no man can tell: the very authenticity of the document may be entirely obliterated by the experiments to be carried on.

Lord Moncreiff. You do not mean to say this is the first

time it was ever proposed to put writings under the hands of scientific men.

Mr Robertson.—Under a motion of Court.

The Lord Advocate.—Is it worse to place them in the hands of a scientific man, under a motion of Court, than if I had taken a leaf, or part of a leaf, and subjected it to experiment without a motion of Court. Am I in a worse condition to make that demand under the Court, than I would be to make the demand in any other way? It is made not for the purpose of destroying or defacing, but merely for the purpose of ascertaining through the operation of scientific men the composition of the ink; and that they might be allowed to take one or two small portions of the paper to ascertain the nature of the colouring matter. Let it be done under your Lordships' inspection,—that is, in the way in which you can see it done through the custody of your Lordships' clerk. I do not want them absolutely surrendered. I ask this to be enabled to conduct a scientific examination; and I am told that I am in a worse condition, because I ask it under a motion of the Court.

Mr Robertson.—My objection is that he is not entitled to make operations at all.

The Court.—Supposing they were done in presence of the Jury?

That would be another matter,—we would then know what is going on.

The Court.—Supposing you were to ask the witness a question about the ink, what objection would there be to touch a letter of an insignificant word with the point of my knife moistened; and what objection would there be to apply chemical action to the latter.

Mr Robertson.—Supposing my case to turn upon the opinion of an individual that a peculiar word or line on this document is authentic, what do I know what these chemists are to do with it? If this be competent on a motion of the Lord Advocate, it is equally competent on the motion of a private prosecutor. Would you allow the instrument in such a case to be taken from the Court, and put into the keeping of two witnesses for the Crown, to make such experiments upon it as they think fit, which might tend to a total obliteration of the whole document?

Lord Moncreiff.—That, perhaps, would be the best thing possible for you.

Mr Robertson.—I understand your Lordship to mean the

annihilation of the documents; I do not mean that. Supposing I were accused of forging a Bill of Exchange: That bill is produced, and there are witnesses to prove that they think the ink not genuine, and I have witnesses to prove that it is genuine.

Lord Advocate.—Let my learned friend bring any one of his witnesses, and I shall engage that no part or particle of a line or word that these witnesses point out shall be touched in the course of this examination.

Mr Robertson.—I will not disclose my case. I shall shew it to no one, whether to the Court or the public prosecutor, until it is regularly brought out in the Court.

Court.—Let us hear what the scientific witnesses intend to do.

Dr Fyfe was then brought in, and examined by Mr Innes.—You are a lecturer on chemistry, and a practical chemist of great experience? I have had a good deal of experience in practical chemistry.

Can you, as a chemist, give us an insight into the colouring of this excerpt which I now put into your hands? I have seen the deed before. From experiments that I have performed upon it, I think the colouring proceeds from some vegetable or animal substance—organic matter.

Mr Robertson.—Have you already performed experiments upon it? I must know what these experiments have been.

Mr Innes.—It is some weeks ago since you performed these experiments? About six weeks ago.

It was sent to you by the crown agent? It was.

For the purpose of obtaining your opinion on the colouring matter? Yes.

You examined it? I did.

Have you a wish to make farther experiments on it? I have. It was not permitted me to make experiments upon it; it was withdrawn from me.

How long was it in your hands? About two days.

What experiment did you make upon it? I tested different parts of the paper, first with bleaching powder.

Let us see where you tested it? You will see here (pointing to the outer cover of the document) two or three whiter spots than the general colour. I applied on these spots chemical tests, bleaching powder. I applied it also on the margin of one or two of the other leaves, not on the writing.

Did you apply your test to any large part? No; I applied

it merely on the outer cover, and on the margin of one or two of the leaves, on a small spot, half the size of my nail, or thereabouts.

Mr Innes.—You did not touch the writing of the deed? I did not apply the test in such a way as to affect the general appearance. I merely, as I have said, touched a few spots on the outer cover, and on the margin of the paper.

The document was then withdrawn? Yes.

Mr Robertson.—How withdrawn? It was taken from me by the crown agent.

Did any body assist you? No.

Mr Innes.—Tell us the result? I came to the conclusion that there was a colouring matter of some vegetable or animal nature, some organic matter, in the paper; the browning of the paper was owing to some such vegetable or organic matter.

Did you come to any other conclusion? Yes, that there is in the paper some acid, sulphuric acid or oil of vitriol. That is the result to which I came, so far as my experiments went.

You wish to make farther experiments? Yes, I do.

Of what nature? I wish to be allowed to operate on a larger part of the paper.

Mr Robertson.—Do you propose to use any other agent? I cannot tell.

Lord Advocate.—Were you asked to examine the document on the part of the prisoner? Yes, about three weeks ago.

Mr Robertson.—Do weak acids give ink a brownish appearance? They do.

Lord Moncreiff.—Would the farther experiments you propose, make any appearance on the deed generally? Can you make your experiments on part of the paper where there is no writing? Yes.

Lord Advocate.—You could do it by getting a margin of the document or half a margin? Yes.

Court.—Would this experiment you propose be more satisfactory to your own mind, and enable you to give a sounder opinion? Certainly.

Mr Robertson.—To what extent would you carry your operations, or do you propose to have an unlimited power over the deed? Not an unlimited power, certainly. I would merely operate on a part of the paper on which there is no writing,—on this sheet, for instance, where there is no writing.

How much of the paper would you require? I would take this blank leaf.

Court.—Is there any experiment that you can perform on

on the writing itself, or a small portion of the writing, that would satisfy your mind, and enable you to answer satisfactorily as to whether the ink is a new or an old ink? I do not wish to perform any experiment on the ink at all.

Mr Robertson.—Am I to understand you, that farther experiments are to be confined to that blank sheet of paper? I shall confine myself to it.

Lord Advocate.—You want a portion of that paper, not touching any part of the integrity of the document at all, to enable you to make your experiments? Yes.

Mr Robertson.—I understand it, then, to be limited to this extent; and if the Court think fit to sanction the crown witness and my witness to operate on the paper separately, I shall not state any objection. I shall be satisfied if the Court instruct Dr Fyffe to confine his experiments to the blank sheet, and to confine his observations upon it till he give his opinion upon oath. I beg that my scientific witness be called in to receive his portion of the paper, and his instructions from the Court.

Lord Moncreiff.—Can you perform your experiments on that blank sheet in such a manner as to leave a sufficient portion as to enable the other witness afterwards to do the same? Yes.

Dr Madden was then called.

Court.—A proposal has been made to the Court, sanctioned by the prisoner's counsel, that a part of that document which is before you shall be given into your hands, for the purpose of your making experiments upon it, for the purpose of ascertaining whether any adventitious matter has been applied to the paper to give it a colour, or whether there is the presence of any acid, or any other substance in the paper which is not to be found in ordinary paper. The Court is of opinion that the experiments must be performed by you and Dr Fyffe separately, and that you are to have no communication with each other. Dr Fyffe can leave the one-half of the sheet to you. You are not only to have no communication with each other as to your experiments, but you are to speak to nobody in regard to them till you give your opinion in Court.

Mr Robertson.—Let them tear the sheet in two, and leave the document.

Lord Moncreiff.—If there be consent of the party.

Mr Robertson.—I proposed it, and the prisoner is perfectly agreeable to it.

Lord Advocate.—Allow me to state to Dr Madden, that the object I want attended to is, whether this paper has been tainted by the application of any liquid, or any matter, so as

to give it that brown colour, or whether it is only the natural brown colour of old paper; that is the point to which I want you to direct your inquiry.

The Court then adjourned till to-morrow at nine o'clock.

SECOND DAY.

Tuesday, April 30, 1839.

Mr Ephraim Lockhart. Examined by Mr Innes. You are a writer to the signet and agent in Edinburgh? Yes.

When were you first employed by the pannel as agent? In April, 1828.

In what law proceedings or actions? I was employed at first in an action of proving of the tenor of a charter of novodamus of 1639. It was raised against Dr John Watts and Mr Alexander Duer.

Was appearance afterwards made for his Majesty's Advocate? Yes.

What were the adminicles by which you proposed to prove the tenor of evidence, — was this one of them? A document bearing to be excerpt charter of novodamus? Yes.

That was the document that you proposed to produce as an adminicle of evidence? Yes.

Did you produce it? Yes, in one of the clerk's offices in the Register House.

About what time did you first produce it in the first process? It was produced with the summons.

The date of producing that document would be nearly the date of lodging the summons? Yes.

After some proceedings, the action was dismissed on preliminary objections? Yes; and another action was raised for the same purpose against the Officers of State and Mr Cuninghame Graham of Gartmore, in which the same document was produced by me. I borrowed it up out of the first action, and lodged it again in the second, on behalf of Lord Stirling.

What is the date of the second lodging of that excerpt? It was also lodged with the summons.

From whom did you get the excerpt then produced? I got it at Netherton House, Lord Stirling's residence, near Worcester, from himself; to the best of my knowledge from his own hands.

Was it lodged in both of these actions of proving the tenor with the knowledge of Lord Stirling? I am sure that Lord Stirling knew of it; it was given to me for that purpose.

The Lord Advocate.—He knew that an action was to be raised? Yes.

And he knew that they were to be given as adminicles of evidence in that action? Yes.

Mr Innes.—Of what date did you receive it from Lord Stirling at Netherton? In May 1829.

Did he tell you how it came into his possession? I do not recollect any thing particular about that. I had heard before; but I do not recollect Lord Stirling's speaking to me particularly about it.

After various procedure and discussion in Court, that action of proving the tenor was also dismissed by the Court? Yes.

Are you aware that the pannel had served three separate general and special services as heir to William first Earl of Stirling? Yes; the first in the Canongate, and the second in the Sheriff Court.

After these services, there was an action of reduction at the instance of the Officers of State themselves, and issued against the pannel? Yes.

In that action, after various procedure, Lord Cockburn pronounced a decreet as Judge Ordinary? Yes, about the 20th December, 1836. (Witness identifies the interlocutor.)

Did that point out various defects in the evidence? Yes.

Did you present an application to the Court afterwards to be allowed to produce new evidence? Yes, there was a reclaiming note given in against the judgment of the Lord Ordinary, and it was after that that the application to lodge new documents was made.

You obtained delay on that account? Yes.

Did you at length tender as productions various documents, which you lodged as evidence in the cause, along with a minute stating how they had come into your possession? Yes.

Is that part of what you so produced? Yes, that is one of the documents I produced, a plan of the map of Canada.

With all these writings on the back of it? All these documents were on it as far as I can see.

The Court.—You do not see any change upon it? I do not see any thing particular. It appears to be just as it was; all the documents are there.

Mr Innes.—You gave in various other documents along with the map? Yes.

Are these the documents you gave in? Do you see a note, "Mrs Innes Smyth's compliments," &c.? Yes.

Do you see another, "The enclosed was in a small cash box?" Yes.

You see a parchment case or cover, with "Some of my wife's family papers" written on it? Yes.

Do you see a letter addressed to the "Reverend Mr Alexander," and signed "B. Alexander?" Yes, dated August 20th, 1765.

Was there a genealogical tree in the packet? Yes, it is inside this packet; that was one of the documents.

Was there also a letter addressed the "Rev. J. Alexander," signed "A. E. Baillie?" Yes, and was also produced.

All these were produced by you at that time, along with a minute for the pannel? Yes. (Witness identifies the minute.) A minute stating how they came into his possession.

They were lodged on or about the date of that minute? Yes, so far as my memory goes.

From whom did you receive these other documents, — the map, and the other various documents since mentioned? The documents mentioned last, were first received by me in London,—they were discovered there in April, 1837.

When did you receive them? I did not leave London till about the middle of May, and I think I received them some few days before I left.

From whom? From Eugene Alexander, Lord Stirling's son.

When did you receive the map, and from whom? The map was brought to Edinburgh.

When did you receive it, and from whom? It must have been in November 1837, in Edinburgh, and from Mr Charles Alexander, another of Lord Stirling's sons.

Do you remember where you lodged the other documents except the map? With one of the clerks in the Register House.

Where was the map produced? It was produced in Court first of all, at the table of the Court of the Second Division.

Was that on the same date with the minute, or the day after? I cannot tell; I gave it to Mr Ferguson, the clerk of Court, as will appear from his marking; he marked it at the time.

You lodged this for Lord Stirling, in that action of reduction against him? Yes.

Did you produce these for the pannel in the action of reduction against the Officers of State? Yes.

Did you produce them with his authority? I produced them with his knowledge.

And that is understood at his desire? I understood so. Lord Stirling very seldom instructed me what steps to take, but he was aware that I had lodged them.

Cross-examined by Mr Robertson.—How did you come to be employed as agent for Lord Stirling? I got some little things to do as far back as 1826, by Mr James Wright, writer in Stirling, on Lord Stirling's interest.

There was a service in 1826 by Lord Stirling to his mother? Yes.

You recollect some papers that go by the name of Hovenden's affidavit and Gordon's statement? Yes.

And these two papers bear a certificate by Thomas Conyers? Yes.

These were produced in the original service in 1826? They were.

And afterwards produced in the other processes? Yes, in the proving of the tenor. (Witness identifies the documents.)

And the documents refer to a certain charter of novodamus? They do.

Had inquiries been made in Ireland to your knowledge in regard to the charter of novodamus, and how do you know? You know a person of the name of Banks? Yes.

Had you communications with him, and about what? That was in 1828.

But in 1828 had you communications about the recovery of the novodamus in Ireland? We had conversations about it. I cannot charge my memory about any search made in Ireland.

Had the charter been found in Ireland in 1828 to your knowledge? Not to my knowledge.

When did you first hear of the excerpt charter of novodamus? In April, 1829.

From whom did you hear at first? In a letter from Banks.

The Lord Advocate.—Banks is alive? Yes.

Mr Robertson.—When did you see him last? I saw him in Edinburgh about three weeks ago in the chambers of Mr Cleghorn, the crown agent.

Look at that letter,—is it the letter you received from Banks to which you have spoken? It is.

And you received it at that date by post? Yes; dated "Netherton House, 10 April," and received on the 11th.

Had you received any previous letters from Mr Banks, or any subsequent one? Yes; one on the 17th April.

You had received previous letters? I do not think in that year. (Witness identifies the letter of 17th April, 1829.)

Did you, after so receiving that letter, go to Netherton House? Yes; in May.

It was then you told us that you got the excerpt from Lord Stirling? Yes.

Did you get it by itself, or among other papers? Yes.

Before receiving it, had you been made aware that any such deed had been found in Ireland by any body? Yes; by Banks.

The Lord Advocate.—You cannot speak to any thing Banks said? Then I had no previous information except what I received from Mr Banks and these letters.

Did you afterwards go to London in this business in 1829? I was then on other business.

Being in London, did you wait on the Lord Advocate at that time? Yes; that was on this business.

Do you know a Mr Corrie, a solicitor in Birmingham? Yes.

Was he agent for Lord Stirling's family? Yes; for his father's family.

Did Corrie go with you to London? Yes; he went on business that was to come on before the Lord Advocate, Sir William Rae.

Was the excerpt shewn to Sir William Rae? It was.

Quite openly? Yes, openly.

Was it left with Sir William Rae? It was left some days with him; and Gordon's statement and Hovenden's affidavit were also left with him.

They were got back again? Yes.

Was it after this that it was resolved on to bring the action of proving the tenor? Yes.

Was there a Mr Wilson of Lincoln's Inn consulted about the matter? I do not know any thing about that.

Do you know whether Wilson prepared a case for Lord Stirling to be laid before the Lord Advocate? I never knew who prepared it.

Do you recollect if Wilson was ever consulted on the business in London at all? I knew he was.

The Lord Advocate. How do you know? I have seen

his opinions. He is now in the Mauritius. He is a Scotch advocate, and went to Lincoln's Inn, and is now chief justice of the Mauritius.

Then the action of proving the tenor was instituted? Yes.

And proceedings went on in the two several actions in the way you stated, and then came the action at the instance of the Officers of State? Yes.

You say you were in London in 1837 when you got Mrs Innes Smyth's parcel from Mr Alexander? Yes.

What state were they in when you saw them first? I remember very well the state: There was an envelope opened addressed to the Messrs De Porquet and Company, booksellers, Tavistock Street; within that was a note from Mrs Smyth to the bookseller.

What was within that? A parchment case. The anonymous letter covered the rest.

It was sealed? First, there was an open packet.

Then the letter from Mrs Smyth open, and then the sealed parcel? Yes.

And enclosed in that anonymous letter from Mrs Smyth? Yes.

And it was opened next day? Yes.

Were you present when it was opened? No; I did not take possession of it before it was opened.

Who shewed the sealed packet to you? Mr Eugene Alexander, and took it away with him.

Did you advise any thing to be done with the sealed packet? Yes.

What did you advise? I advised him to have it opened before a magistrate.

The Court.—To whom was the sealed packet within the cover addressed? To the Earl of Stirling.

Mr Robertson.—When did you first see the paper that was on the back of the packet bearing "Some of my wife's family papers?" Next day in the afternoon.

By the Court.—In whose hands did you see those next day? I cannot say whether in the hands of Mr Fergusson or Mr Fennel, a solicitor in Bedford Row.

Was it sealed when you saw it? No.

What else did you see? The two letters, signed B. Alexander, and A. E. Baillie, and the minute said to have been made up at the opening of the packet.

You would know it again? Perfectly well; it had to be made up by a proctor. (Witness identifies the documents.)

That was shewn to you as a minute made up at the opening of the packet seen in the hands of Eugene Alexander? Yes.

What was done with the papers after being so shewn to you? They were, first of all, left in the hands of Mr Fennel to make a copy of them; after that was done, I received them into my possession from Eugene I think.

You would know them again of course? Yes. (Identifies them.)

What did you do with them? I brought them with me to Edinburgh.

Then they were afterwards produced in the process of reduction? Yes.

Was Lord Stirling, to your knowledge, in London at the time? No; to the best of my knowledge he was not.

You never saw him there? Not at that time.

When had you seen him last before that? I saw him in Scotland in 1834.

When again? I do not recollect. I think I saw him in August, 1837.

That was at the time of the peers' election? It may be, but I do not at present recollect.

As to the map and the other documents, when did you first see them? I first saw them in that packet sealed.

When was this? Early in November, 1837.

It was in a sealed state, and first produced in Court under seal? It was.

And when produced it bore that writing on it, whatever it might be, and the name Le Normand? Yes.

Had you seen Lord Stirling between August and November? Yes; he remained in Edinburgh.

Mr Robertson. — Does it consist with your knowledge whether there was any quarrel between Lord Stirling and Mr Banks? Mr Banks frequently spoke to me ——

Court.—That will not do.

Mr Robertson.—Does it consist with your knowledge that there was a good deal of intercourse between Lord Stirling and Mr Banks at one time? Does it consist with your knowledge that that intercourse ceased, and when? Yes; it ceased, I think, in the end of 1834, or beginning of 1835.

Since your first acquaintance with Lord Stirling, have you had frequent and familiar intercourse with him? Yes; both in my own house and in his.

Did you ever see in his possession any old maps, or char-

ters, or documents that excited any suspicion in your mind in any way? I never did.

How did Lord Stirling usually employ himself so far as you know? Within doors he read the modern books of the day, and occupied himself like other gentlemen.

Did any suspicion ever cross your mind at any time as to the authenticity or genuineness of any one of the documents that you have spoken to to-day? No.

You produced the whole of them in the *bona fide* belief that they were genuine? Certainly.

Otherwise you would not have done so, I presume? I would not.

How long have you been a writer to the signet? I entered first, I think, in 1803.

In so far as you know, has the prisoner always borne a fair and honourable character? I have every reason to believe so. So far as I can judge, Lord Stirling has borne an excellent character, the character of an honourable and good man.

And deservedly so in your opinion? Yes; particularly so.

Look at these letters bearing to be from Banks of various dates. You know them to be in Banks' handwriting? Yes; I know the handwriting. They are letters to Lord Stirling.

By the Court.—Have you seen Banks write? Frequently.

And corresponded with him? Yes.

And these letters bear postmarks? Yes.

By Mr Innes.—Do you remember the pannel being examined in the Second Division, and producing a copy of a letter from Paris? Yes.

He undertook to produce a copy of the original. See if that is a copy of the letter you produced for him? Yes.

Had you received a copy from him? It is copied from a paper, and produced by me as a copy of that letter.

What was the date of producing it? 20th December, 1838. It came through my hands by the authority and desire of Lord Stirling.

By Lord Advocate.—You say that the intercourse between Banks and the prisoner ceased in 1834. Do you happen to know that Banks was the prisoner's confidential agent prior to that? Yes; but not quite up to that time. He was not an attorney, but a confidential agent.

Mr James Ferguson. Examined by Mr Innes. You are principal Clerk of Session in the Second Division. Look at the marking on the cover of that map? That is my signature.

Read the marking. "Edinburgh, 25th November, 1837. In presence of the parties, the seal of this envelope was opened by authority of the Court, and the enclosure therein has been marked by me in the absence of my colleague, Mr Thomas Thomson, clerk of the process."

Look at this. Is this the enclosure therein referred to? Yes, and marked by me.

Read the marking. "Edinburgh, 25th November, 1837. These documents were found in the envelope, and marked by me in absence of my colleague, Mr Thomas Thomson, clerk of the process."

They were correctly marked of that date?

Mr William Shiell. You are assistant Clerk of Session? I am.

Were you present when this packet was given in to Mr Ferguson in absence of Mr Thomson? Yes, I saw it opened. Mr Charles Alexander handed it to Mr Lockhart, and Mr Lockhart handed it over to Mr Ferguson.

Along with some other documents? No; the other documents were lodged in the office on the Monday by Mr Lockhart.

Is that one of the documents so lodged? Yes, (identifies it.)

Look at these. Are these the documents that were lodged on the Monday—the articles referred to in No. IV. of the indictment — the packet to De Porquet? Yes, these are the documents. They were lodged on the 20th December, 1837.

Mr Innes.—I am now about to read the summons by the Officers of State against Lord Stirling, and the judgment of the Lord Ordinary, with the accompanying note produced along with these documents when they were lodged in Court. The summons is for reducing certain retours of service therein specified, a general and special service of the pannel, as heir of William, first Earl of Stirling, and of various lands and possessions both in Scotland and in America, and the writs on which the services proceeded. The pursuers are the Lord Advocate, and the Officers of State. The defender is called upon to produce certain writs for having them proved false, and the summons proceeds in this manner. (Read it.) Then I read the interlocutor of the Lord Ordinary, 10th December, 1836, and the note then issued was afterwards appended to the interlocutor when completed. (Read it.*)

* See this printed in Appendix to Introduction, No. III. p. lxii.

Mr Adam Anderson.—There was a reclaiming note in the Second Division against that interlocutor.

Mr Innes.—I state now, and subject to the correction of my learned friends, that there was no averment made then of any second marriage of John Alexander called of Gartmore.

Mr Robertson.—Yes; this statement is correct.

Mr Innes.—And I state also that there was a reclaiming note, as my friend Mr Anderson says, given in against this interlocutor, which I presume it is unnecessary to read. Then come various motions for time; and, at last, come the documents, for the production of which the time was craved, and a minute, stating how they came into the hands of the pannel, which I now read. (Read it.*) That is signed by counsel for Lord Stirling. (To the Jury.) Gentlemen, I may be allowed to explain to you, that the Court, not finding the Minute sufficiently minute, directed a condescendence to be given in, a part of which I now read to you. He states that he went to France in 1836, and lived there till the 15th of August, 1837, when he returned to vote at the election of Scottish Peers; and then he mentions, nearly in the same terms as before, the recovery of the English documents. Then he states in regard to the French documents as follows:—(Here Mr Innes read the substance of what appears in the minute, No. IV.) Along with that reclaiming note, there was produced a sketch of descents from the first Earl of Stirling, which I now hold in my hand, and which I shall read to you. (The descent, as may be found in Appendix to Introduction, was read.)

Monsieur Espinasse, French teacher, was then called into Court, to be sworn as interpreter between the French witnesses and the Court.

Mr Robertson.—We wish to have an interpreter sworn also, and I submit that Monsieur Duriez should be called in. I beg to say, that I have the most perfect confidence in Monsieur Espinasse; and if the Court have no difficulty in regard to this, I submit that our request should be complied with.

The Court.—You may have your interpreter sitting by Monsieur Espinasse to satisfy you.

Mr Robertson.—I am perfectly satisfied my Lord. (Monsieur Espinasse was then sworn.)

Mr Innes.—My Lords, this large volume of maps, which I mean to make use of in the examination, is a volume pro-

* Printed in Appendix to Introduction, No. IV. p. lxxii.

duced from the Advocates' Library, entitled "Recueil des Chartes," (No. 37 of Inventory of Productions.)

Monsieur Jean Baptiste Theodore Alex. Teulet. (Court.)—Ask him in what manner he would wish to be sworn for a binding oath? "As you please." (Sworn in the usual way.)

Examined by Mr Innes.—What are you? Joint Secretary of the Archives of the kingdom of France.

Are the Archives a great national collection? They are documents relating to the public affairs and history of France.

The Archives of the kingdom do not comprise all the Archives of France? It is an immense collection, but it is not altogether complete.

Is part of the collection composed of topographical and geographical works and maps? The Archives of the Kingdom are divided into five sections. One of the numbers of these is geography — the topographical collection comprehends an immense quantity of various maps.

Do these maps form part of the collection? This map alone does not make part of the collection.

Mr Robertson.—Are they marked in any way?

Mr Innes.—Did you bring these maps in your hands from the collection? Yes; I brought them myself.

Mr Robertson.—Did you mark them before you brought them away?

Mr Innes.—Do you know for certain that these are the papers from the Archives? Yes; I brought them myself, and I am sure they are authentic, they never came out of my hands till they were brought hither.

Look at all the maps, and see if you have any doubt that these are maps of the Archives? Point out the mark on each map by which you know it? They are perfectly insignificant; made as the maps come into the Archives, and made by chance. The map of the Archives has a stamp.

Mr Robertson.—I have no doubt that this gentleman speaks honestly to his belief. He says these are the maps that he took out of the collection; now he must explain how he identifies the papers which he took out of the Archives with the papers before him. (To the witness.) Are these the maps which you brought from the Archives, and how do you know that they are the same? I know them, because I have examined them so often, that I cannot but say they are the same.

Mr Innes.—See if there are any marks on the maps by which you may identify them? There is a mark upon one here.

Mr Robertson.—What marking?

The Court.—The interruption is irregular; do not interfere till you come to cross-examine.

Mr Robertson.—My Lords, I am perfectly aware that that is the rule of the Court, but I beg here to ask my friend, the Lord Advocate, if he means to tender these maps as evidence?

Lord Advocate.—I do.

Mr Robertson.—Then I am entitled to object to them as not being sufficiently identified.

The Court.—But that interrupts the whole proceedings, let Mr Innes go on with his examination to identify them if he can.

Mr Innes.—Have you no means of identifying them? Yes, I have the best of all means, I detached them from the Atlas, and by this means I can identify them conscientiously. Besides, some of them are marked in my own hand. Three of them are so marked, because they were each part of three sections of maps.

Are all the maps which you brought from the Archives maps of Guillaume De L' Isle?

Mr Robertson.—I was stopped by the Court in objecting to these maps as not being identified.

Lord Advocate.—Yes, they are identified.

Mr Robertson.—I object to their being put in evidence.

Mr Innes.—I will go on in another manner. Look at this map, what is it a map of? A map of Canada, or New France, by Guillaume De L' Isle.

Say whether that map bears to be by Guillaume De L' Isle, Geographer to the Royal Academy of Sciences? I consider it authentic.

Is it a map of Guillaume De L' Isle having the title of "Premier Geographe du Roi?"

Court.—Let him read it, and then describe it. (Witness read it.) Now translate it. "Map of Canada, or New France, and of new discoveries made there, drawn from several observations, and a great number of printed accounts and manuscript narratives, by William De L' Isle of the Royal Academy of Sciences, First Geographer to the King, &c. 1703.

Mr Innes.—Now you have seen a great number of maps by De L' Isle? A very great number.

From those you have seen, and from those you have brought with you to this country, do you know that De L' Isle had a practice of keeping the copper of his maps, and from time to time making alterations on, and additions to them? De L' Isle was in the practice of keeping his plates, either from maps or drawings, to use them for other impressions as the sale was called for.

You mean throwing off impressions from the coppers as he required them?

Do you know that De L' Isle, from time to time, made alterations on the coppers for the successive impressions on his maps? De L' Isle, from time to time, made on his coppers changes and additions.

What kind of changes did he make in general? The changes were modified according to circumstances; for instance, according to discoveries made, or for a change in his domicile, or for any new title he received.

Look at the map of Canada marked B on the margin; is that a map of De L' Isle? It is a map of Canada by De L' Isle of 1703.

Read the inscription upon it.

Mr Robertson. I object to this. It is not identified. I ask if it is one of the maps he got from the Archives? Yes.

Are you certain of that? Quite certain. I brought it with my own hands from the Archives, and I have seen it so often, that I can assert it to belong to the Archives.

How many maps did you bring altogether? Twenty-two or twenty-three.

Did you put any particular mark on these maps? Only upon some of them.

Upon how many did you put a mark? I put a particular mark on a certain number of maps which I rolled together. There were three principal marks.

Were there any more than three marked by you? I think there were only three out of the twenty-two.

What was the object of that marking? It was to shew in what manner De L' Isle made his additions to his map, " Premier Geographe du Roi."

Have you any other mark by which you can identify those twenty-two maps as maps taken out of the Archives of France? They were detached from an atlas, as the atlas was too large to bring hither, and they bear in the corner the number of the atlas from which they were taken.

Did you make any marking yourself, by which you can identify those maps, except the three you speak of? Yes.

What mark did you make? There is on each map a part of the bit of paper by which the map is attached to the atlas.

Did you make any mark by which you would know any map again when you saw it? I made no mark towards ascertaining any particular mark, but I know them all to be the same that I brought with me.

Mr Innes.—Look at the map B. How is the author described in that map? Guillaume De Lisle, Geographer to the Royal Academy of Sciences at Paris.

Lord Advocate.—I wish to put a copy of the *fac-simile* of the map libelled on into the hands of the Jury, if the opposite party have no objection.

Mr Robertson.—We have no objections.

To Jury.—Gentlemen, you will observe that the map is by Guillaume De L' Isle. A map has been put into the hands of the witness, the title of which does not bear more than Guillaume De L' Isle, Geographer to the Royal Academy of Sciences. Observe, both maps bear the same date. Look at the title of the copy, I want you to observe the title of the one, and the title of the other.

Mr Innes.—Is that a genuine map of Guillaume De L' Isle which you have before you? It is.

Have you seen other additions, with alterations, of the same title? I have seen many copies of the map of Canada, with alterations and additions.

Are these additions to the title? To the other parts, the additions are in the title.

Look at the title of that map, (map from Advocates' Library,) is that a map from the same copper? It is a map from the same copper, but it changes.

Are these changes in the title? Yes.

What is the residence in that map? At the Golden Eagle, Quai d' Horloge.*

On the map B, read the residence of the author thus, Rue des Canettes, sur l' Hospice. In the other Quai d' Horloge.

Both bear the date 1703? Yes.

To Court.—I now, my Lords, put into his hands a body of maps without title, (38 of Inventory of Productions,) and

* Mr Espinasse here interpreted as follows:—" He says, my Lord, he live at de Golden Eagle at de key of de clock!" (Loud laughter.) " Dat is as you make it!"

I shall ask him to look at that map if it has come from the same quarter.

Mr Robertson.—Nobody can tell. All that you get is a volume of maps without mark or any thing else, and that is to be shewn to the witness to prove something against the prisoner, I know not what.

Court.—You understand it is libelled on? Yes.

Mr Robertson. Supposing my learned friend had produced a volume of papers, bearing to be deeds of various descriptions, could he have shewn that to the witness and said, Do you know that to be the deed of such a man?

Court.—What he is going to ask is, do you know that to be a map by De L' Isle? What is the objection?

Mr Robertson.—The map is not described in any way.

Court.—Put the map into the hands of the witness, and ask if he knows it.

Mr Robertson.—Do you know that to be a map of De L' Isle?

Mr Innes.—Is that a map of De L' Isle from the same copper? Yes, but with a change.

That is still a map of 1703? It is still a map of 1703, but it is not an impression thrown off in that year.

How do you know that? I know it by the addition of "Premier Geographe du Roi."

Look at the lower corner of that map B, there is a date there? There is the date of 1745 at the corner. The title remains First Geographer to the King, and to the Academy of Sciences: it was then the property of the son-in-law of the author.

But the title is the same as in the map libelled on? Yes.

Are you certain that these two maps are from the same copper? I am certain that they have been printed from the same copper.

Look at this map which I hold in my hand, (one of De L' Isle's maps from the Archives,) is that still a map of Canada by Guillaume de L' Isle? It is.

Is that from the same copper? Yes, but printed long subsequently.

What is the date of the map? (C, No. 36 of Inventory of Productions.) 1783.

There are many alterations on that map? There are many changes in the title of this map; all that part of it, from the words "Guillaume De L' Isle" has been effaced, and replaced by other characters.

How do you know which are printed earlier, and which later? I know that this map dated 1703, was printed several years subsequently to 1718, because in the title of this map are to be found the words "Premier Geographe du Roi."

Do you judge that any map having the title Premier Geographe du Roi, applicable to De L' Isle, must have been thrown off after 1718? I am sure and perfectly convinced, that every copy of the map bearing the words "Premier Geographe du Roi," must have been thrown off subsequently to August, 1718.

How do you know that? I am perfectly certain of it. De L' Isle did not bear the title till the month of August, 1718.

Mr Robertson.—I put this question, How do you know that De L' Isle was appointed Premier Geographe du Roi, on the 24th August, 1718? I know it, because we have found in the Archives of the kingdom the commission of De L' Isle, as Premier Geographe du Roi, dated 24th August, 1718.

Mr Innes.—Look at that extract. It is the very extract which I made with my own hands from the Register.

Mr Adam Anderson.—We object to this. You see what is produced. First, if we are to deal with a foreign register we have not the register itself, — the document which is now said to be produced is only a copy. We have no evidence before us by French lawyers, or otherwise, that according to the laws of France, either the register itself may be evidence, or whether a copy could be produced as evidence in the Courts of France, and, therefore, we think that this document cannot be received as evidence. Observe, the register from which this document bears to be extracted is foreign. We all know, for instance, that according to the laws of this country, records of baptisms and burials were not received at one time as evidence, because they were kept irregularly, and the Court could not place confidence in them; and even now they are only received when a party is ready to speak to their correctness and authenticity. It is necessary, before you can look to a foreign register, to know that it is such as will bear faith in judgment in that country. You see even in our own country that every thing depends on the regularity in which the register is kept. Then look to the circumstance, and see how you apply these principles in this country. It is necessary that you should know whether such evidence would be allowed to be brought forward in the country where such a

register is kept. We take our objection on a second and still stronger ground. The only evidence which is now tendered is a document which the witness himself says he has written and compared himself. We require to know whether a copy such as this would have been received as evidence by the laws of France. We know nothing here of what is a sufficient extract by the laws of France, and we are entitled to have such evidence. I put the case, that the Crown had tendered and put in evidence a foreign judgment. We would have been entitled to know that that judgment was duly authenticated before you could receive it. I am arguing this on distinct and positive authority. This point was decided in the Civil Court in regard to the judgment of an English Court, and you will see the course there followed; Robertson *v.* Gordon, Nov. 15, 1814, (Fac. Col.) One of your Lordships must know it well. The rubric is—

"Proof.—Foreign.—An exemplification of a foreign judgment, attested to be a true copy by the officer of Court, and bearing the chief justice's seal, is not *per se* good evidence that such judgment had been pronounced.

"Mrs Robertson raised an action in the Island of Grenada against Mr Gordon, for recovery of certain sums of money alleged to be due by him; and she obtained decree.

"Mr Gordon having retired to his estate in Scotland, Mrs Robertson proceeded to make the decree effectual, by instituting an action against him in the Court of Session; and she founded upon an exemplification which she affirmed to be a true copy of the judgment, — to be attested as such by the proper officer of the foreign court, and to bear the seal of the chief-justice for the time; and she argued that in such circumstances this document was conclusive without further proof.

"The defender contended, that there was no evidence that the copy was faithful, or that the seal was the seal of the chief-justice; that the copy, therefore, was not legally and formally authenticated, and could not be received in Court as good evidence of the fact that such judgment had ever been pronounced.

"The Lord Ordinary, in repelling the defence, proceeded principally upon a letter from the defender to the pursuer, which his Lordship conceived to imply an acknowledgment of the debt.

"The court ordered the opinion of English counsel to be taken on a joint case prepared by the parties. The opinions of Sir Arthur Pigott and Sir Samuel Romilly were decidedly,

that the exemplification of the judgment was not duly and sufficiently authenticated, and would not, without farther evidence, be admissible in a court of law in England.

"The Court (15th November, 1814) altered and sustained the defences in *hoc statu*.

"On a petition, followed with answers, the Court, (9th February, 1815,) before answer as to the relevancy, allowed a proof of the authenticity of the copy."

Lord Moncreiff.—There was no witness.

Mr Anderson.—No; but look to the course of procedure. The court, knowing nothing of English law, and not taking upon itself to decide what was a good exemplification, did what? They resorted to the opinion of English lawyers to see whether the evidence tendered was sufficient or not. It would have been the same if witnesses had been there. The court cannot take upon itself to say what is a sufficient exemplification of the judgment. It is not an unusual course of procedure. We have the same law laid down by other institutional authors in regard to criminal procedure. Burnet says, p. 483, "When the record of a foreign court is founded on, it must be verified agreeably to the forms in use in that country. Thus, a copy or an exemplification of a record of an English Court is not received with us, unless it be under the seal of the court, which is the usual form of authenticating copies of records by the English law. As to office copies, which correspond nearly with our extracts, they are, at common law, no evidence in their courts, and are very rarely admitted. Accordingly, in the case of William Deans, for coining, an objection having been taken to a witness, that he had been pilloried in Ireland for a similar crime, and so was an infamous person; and a copy of the judgment in the King's Bench in Ireland, signed, as it was said, by the proper officer, having been offered in evidence of the objection, it was contended, that it was inadmissible, not being an exemplification under the proper seal. The court gave effect to this, and rejected the copy, in consequence of which the witness was received." So your Lordships will see, that there they held the principle, for these cases must vary according to circumstances; but they decided that the deed put in evidence was to be authenticated according to the law of that country. Mr Alison lays down the law in the same way, p. 598, "When the record of a foreign court is founded on, it must be verified according to the forms in use in that country. Thus, a copy or exemplification, as it is called, of a record of

an English Court, is not received with us unless it is under the seal as well as the hand of the court, which is the usual mode of authenticating copies of records by the English law." So that you will see that it is laid down in all cases, that the court must look to the evidence to be received in a foreign country. Put the case that any party had gone to the records in France, and produced a certified copy made by himself, would you hold that copy as evidence of the commission? The best evidence is the register. If you have not the best evidence, then you can lead only such evidence, which by the law of that country is equivalent to the best. It would just come to this, if this witness were to be allowed to speak to that document.

Mr Innes.—Well, take it in another way, I ask Monsieur Teulet if he has gone through a course of legal studies in the University of Paris? Yes.

How many years have you so studied? Four years.

Are you now a licentiate of law? Yes.

Is the register of the Secretary of State in France a regularly kept and authentic register? The collection of the Register of the Secretary of State, that is to say, the collection of the Register of the King's Household, forms a series of more than 118 volumes.

Is it a very authentic register? Yes, a register of the greatest authenticity.

Is it the proper register in which to record a brevet, such as that of Premier Geographe du Roi? It is the only collection of documents in which such an appointment as that of Guillaume de L' Isle could have been found.

Are you assistant keeper of the Archives of which that register forms a part? I am one of the persons employed in the copying of such documents belonging to that register.

Is this extract done in the formal and regular manner of extracts? It is done after the most authentic manner in France. It is certified by the general keeper of the archives of France, and invested with the seal of the Archives.

Do you know the subscription of the keeper of the Seal of the Archives? Yes; I see it every day in France, and likewise the Seal of the Archives.

Do you recognize the signature of Monsieur Daunou? Perfectly.

Would that extract be received as evidence in the courts of law in France? It would.

Did you read and compare the extract yourself, with the

original; and along with you another witness? I have compared it not only word for word, but letter by letter, with the original document, and it is exactly corresponding to it.

Mr Anderson.—I am only sorry that my learned friend did not stop me sooner in my objection.

Mr Robertson.—They have now done that which we wanted them to do.

The Court.—It is proper, however, to state, that we should have doubted your argument.

Mr Innes.—Do you learn from that record the precise date of the appointment of Guillaume De L' Isle to be Premier Geographe du Roi? Yes, it was on the 24th August, 1718.

Besides these maps of Canada have you seen a great many maps of Canada by De L' Isle? Yes.

Have you found from the inspection of the whole that De L' Isle altered the title of his maps without altering the date? From inspection of a great number of maps, I have the conviction that De L' Isle, subsequently to the month of August, 1718, after having received the title of Premier Geographe du Roi, had the title engraved upon all the coppers which he had in his possession, so that all the impressions thrown off subsequently to this date bear the addition of First Geographer to the King, whatever may have been the date remaining at the bottom of the title.

Lord Advocate.—Are you, from all you have seen and known of De L'Isle's maps, perfectly satisfied and convinced, and entertain no doubt, that, when you see Premier Geographe du Roi upon the title of one of those maps, that particular copy must have been thrown off subsequently to the month of August, 1718, and could not have been thrown off before? I am perfectly convinced, that it is altogether impossible that a map of De L'Isle, where he is designed Premier Geographe du Roi, could have been thrown off previously to the month of August, 1718.

Mr Innes.—What was the reason in general for keeping the original date of his map? De L'Isle has preserved in his coppers the date of the original publication of the map, because the date was necessary to ascertain the original commencement of the copyright. The privilege in the map of Canada was for twenty years after its date 1703.

Was the privilege sometimes renewed? I think the privilege for some of his maps was renewed in 1745 for the benefit of his son-in-law.

Do you know, and how do you know, the date of the death

of Fenelon, Archbishop of Cambray? I have ascertained the date of the death of Fenelon, because I myself made from the original register of the chapter of the Metropolitan Church of Cambray, an extract of the document which gives the very hour of the death of the archbishop.

Did you find that Fenelon died at five o'clock in the morning on the 7th day of January, 1715.

Mr Robertson.—Put it in. We do not dispute the extract. (No. 35 of inventory of productions.)

Mr Innes.—Look at this other extract,—do you know the date of the death of Flechier, Bishop of Nismes? He died in 1711.

Do you hold in your hand an extract from the register of the appointment of his successor? Yes; this document proves by induction the death of Flechier, by giving the date of the appointment of his successor to the bishopric of Nismes, 26 February, 1711.

Look again at the map; is it possible that the line "Premier Geographe du Roi" could have been inserted in its present place in any other way than by an alteration of the original copper of the map?—Is it possible that the line may have been interlined by any process upon that map which might induce one to suppose that it had existed before 1718? I think it is impossible that the line Premier Geographe du Roi could have been inserted in that title in any other way than by an alteration in the original copper of the map.

Is the original copper of 1703 still preserved? Yes; I have seen it, and had it in my hands.

Is that (shewing witness a copy) an impression from it in its present state. This is a copy from the copper in the present state.

You compared that with the original copper you have seen in Paris? I have compared this very copy with the copper beside it.

Have alterations been made on it down to 1783? When Buache the son-in-law became the proprietor, he never changed the plate.

The royal arms of France have not been taken out of that map? I have here a copy dated 1783; and I am convinced that this copy is still more recent, for the armorials of France, which were at the head of the vignette, have been effaced. and the word "king" obliterated; but still it is from the same copper. This copy is subsequent to 1793, the time when royalty was suppressed in France.

Look at the lines at the top. The wording at the title at the top is also changed; from the word "Canada" all the rest has been effaced.

Lord Advocate.—Look at the title of that map, and say if you do not find that the words "Premier Geographe du Roi," are not also changed? The title is very irregular and ill arranged in this respect, that the word "Geographe" has been effaced, and its place left blank.

That gives the title an irregular appearance,—it wants the balance? Yes.

Is not the line containing the words, "Guillaume de L'Isle" left shorter than it should or could have been in the original subscription, by defacing the word "Geographe?" The engravers always steadily endeavour to make the lines of a certain relative length the one to the other; and the line in which the word "Geographe" had a place is now found too short, because this word Geographe has been effaced, and not replaced.

Mr Innes.—Is that effacing in the paper or the copper? It must have been done on the copper; if it had been done on the paper it would have been easily detected.

Did you observe, when you saw the copper of that map, whether it was marked with hammer marks on the back? I examined the copper in Paris on the under part, and there are evident traces of hammer marks, which, of course, had been done to fill up the empty space of the characters which had been effaced.

Look at that note signed Philip Mallet on back of the map; does it appear to have been written in ink that is commonly used? The letter signed Philip Mallet, as well as the letter signed John Alexander, seems to me to have been written in an ink composed of China ink, of yellow, and of red.

Do you observe that both these writings are considerably blotted, and the ink run on the paper? In considering attentively these two documents, I have been struck with the resemblance of the colour of both inks used in the two letters. I have distinguished under certain words a reddish tint, which springs out, and which seems to shew that these documents might have been written with the same ink which I have mentioned as being composed of China ink, yellow, and red. Such an ink is generally composed to imitate ancient writings, and in the use of which it often happens that the reddish tint springs up when the ink is dried.

Have you any farther observations to make on it? When examining this map, a circumstance struck me, but it is only presumption. This map is spotted, as you observe, in different places, with a reddish colour; and I think it is not impossible that some accident may have taken place to the person who was writing this document, and that the mixture which that person made use of was splashed on the map. But then it is merely presumption.

The Court.—There are some seals on the map which are red also; I want to know if it is the same colour of red in the seals that is on the map? I do not know, but it may be.

Mr Innes.—You call yourself joint secretary of the archives of the kingdom of France. Have you studied charters? I have studied in the school called the School of Charters, (Ecole des Chartes,) in Paris, from which I have got a diploma, and I now call myself a student of old writings.

Had you much acquaintance with old writings? I left the school mentioned in 1823, the first pupil in the school.

And since that time you have devoted your attention to old writings? It is my business to study daily ancient writings.

Are you employed in directing fac-similes to be made in imitation of ancient writings? I have not myself made fac-similes, but I have employed others; and I have often seen one of my friends, who is in the habit of imitating such writings, making use of an ink similar to that which I have mentioned, and to whom the same accident happened that may have happened to the writer of these letters.

Generally, and from all your observations, are these authentic writings of the dates they bear, or are they not? In my conscientious belief, I feel convinced, that all the writings on the back of that map are false; and this I infer, not merely ftom the examination of the writings, but from the presence of the title First Geographer to the King, which proves, that this copy could not exist till after 1718, and in consequence, the individuals whose names these letters bear, could not write in 1706 and in 1707, and on which no writings could have been written by the Archbishop of Cambray.

You do not mean to say that these markings by Villenave and others are not genuine? Monsieur Daunou, in certifying that, has not certified the authenticity of the signatures, but merely the resemblance.

Have you made search in the registers of France for any such registration as that on the margin 17189, and apparently

the word "Register" on the top of Philip Mallet's letter "17189, 17190, Regr. ?" Are these the marks of registration in any register in France? We have marks nearly resembling these, but I cannot find what these are.

They do not apply to any register that you have been able to discover? They do not.

Cross-examined by Mr Robertson.—You know the handwriting of Monsieur Daunou? Perfectly.

What is he? The general keeper of the archives of France.

Is he a person of high respectability, and possessing a great knowledge of old writings? He is very respectable and very learned in old manuscripts.

Read the attestation of Monsieur Daunou on the back of the map. Witness read the attestation. (See Appendix to Introduction, p. lxxxvii.)

That is in the handwriting of Monsr. Daunou? It is his signature.

In whose handwriting is the certificate itself? In the handwriting of one of the persons employed to write in the Archives.

Are the signatures that follow genuine? Without doubt.

Do you know Villenave? I know him, but not personally.

Is he of great respectability? Certainly.

What is his occupation? I cannot tell.

Is he a person skilled in old manuscripts? He has a collection of autographs.

Look at the handwriting of Villenave; is that genuine?

The Court.—This is objectionable, as Villenave is alive.

Mr Robertson.—I will prove that he is not in a condition to come.

Lord Advocate.—By proving that that is the handwriting of Villenave, I do not think that makes any thing at all, for it cannot be laid before the Jury.

Mr Robertson.—It is impossible that the document can go to the Jury without it, for it is upon the document.

The Court.—It does not follow that it is evidence of the fact.

Mr Robertson.—If the prosecutor is entitled to ask his opinion as to the authenticity of any part of that paper, I am entitled to do the same on another part. The paper is there, and I am entitled to look at it.

The Court.—This is a question as to the authenticity of a person alive, and who might have been brought here.

Mr Robertson.—If we are to have a solemn argument upon

the question, I maintain that I am entitled to ask his opinion on any handwriting on that document; and I am entitled to read any part to the Jury.

Look at the words, " Cette attestation est de la main d'Esprit Fléchier, Evéque de Nismes. Villenave." Translate that to the Jury.

Lord Advocate.—No.

Mr Robertson.—Well, then, I will go on step by step. Do you believe that to be the genuine handwriting of any one?

The Court.—The man is alive. The witness said he is alive, and was in possession of a number of autographs, but he did not know his profession.

Mr Robertson.—Had I known that I was to be stopped in this course of examination, I would not have put the question about Villenave at all. Do you believe that these words signed Villenave are a forgery or not?

Lord Advocate.—There is no question about these words being a forgery.

Mr Robertson.—Does your opinion of the document, to which you have spoken as being a forgery, arise from the attestation it receives from the word Villenave at the bottom? Not at all.

Why not? Because Villenave has been deceived. He has done it in good faith.

Lord Advocate.—I put it to my learned friend to say, whether this is a correct course of examination. I have stated that I am ready to argue the point with my learned friend when he chooses. Now, he wants to get a rash answer which he would not be entitled to get by a regular examination. You heard the witness state all the grounds on which he conceived the documents were forgeries.

Mr Robertson.—I am not conscious that I have done any thing improper in the mode in which I have conducted this cross-examination. If I were, I should at once submit. I put the question in the hearing of the Court; it was allowed to be put, and the competency of any question is never allowed to be affected by the nature of the answer the witness gives. I maintain that, with respect to Daunou, that I am right to read the translation to the Jury when I address them, but with respect to Villenave, I have enough for what I want.

The Court.—The witness stated he knew Daunou's handwriting. It is taken down, and it is ruled. But the question is now, are we to go a step farther?

Mr Robertson.—I am entitled to read it under the correction of the Court.

The Court.—Do you mean to give this in as proving the handwriting of Fenelon?

Mr Robertson.—On the contrary, the witness says that Villenave was deceived, and that he had done it in good faith. Do you know whether Villenave has a large collection of autographs? Villenave has a pretty considerable collection of autographs, but other persons have collections of greater importance and extent.

Mr Robertson.—Have you seen his collection? I never did.

Do you know Charles Herald de Pages, attached to the historical department of the Bibliotheque Royale? Yes.

Is he at present in Edinburgh? Yes.

Is he a person that has the reputation of being skilled in handwriting? I believe he is a very clever young man, but I do not know, seeing he is so very young, whether he has enough of experience to test the identity or authenticity of ancient writings, especially without having his eyes directed to a great number of objects for comparison.

Mons. Stanislas Jacobs, geographical engraver, attached to the Institute of France. Interrogated by Mr Innes.—You have examined a great number of maps; have you been long employed in engraving maps? Two years.

Have you also studied the making of fac-similes of ancient writings for publication? Yes, and for the French government, and for the minister of public instruction.

Have you examined many maps of De L'Isle's? Yes.

Have you seen a great many maps of De L'Isle's before 1718, without the title of Premier Geographe du Roi? A great many. I have seen a great many of double impressions of maps, some having and some wanting the title.

What do you mean by double impressions? Duplicates of the same year, in the Bibliotheque du Roi and the Archives.

Was that difference effected by any operation on the copper or the paper of the map? It must have been effected on the copper, not on the paper.

Was the difference between the duplicate maps produced by any operation on the copper or on the paper? The title has been added by engraving on the copper after Guillaume De L'Isle had been made first geographer to the king.

Have you seen the operation performed on different plates?

Sometimes by interpolating, but this interpolation only takes place on those maps, the date of which is anterior to 1718. In the maps published subsequently to 1718, there is no interpolation; the words "First Geographer to the King" are always regular with the other part of the title. There is, in one word, no evident interpolation as in the maps before 1718.

Is the operation done in many different manners? Yes.

Is that one of them in the map before you? (From the Advocates' Library.) It is inserted there above the line. It is a map of Paris of 1716, two years and two months before De L'Isle was first geographer to the king.

What is the date of this other map? 1704.

Is the title there also inserted above the line? Above the line, and united by a bracket with the words "Of the Academy of Sciences."

Is not that interpolation sharper, and blacker, and newer than the engraving? Yes; it is an interpolation which took place after the publication of the map, from its appearance. It is subsequent to the publication of the map, in short.

Have you seen many instances in which the title "Premier Geographe du Roi" is inserted in a line by itself in that manner? (Shews the map of Canada libelled on.) Yes, sometimes.

Look at that map marked B; is that map of Canada of the same date, and by the same author? and is it a map of the same copper? Yes.

Do you observe the difference between the titles? Yes; the title of "Premier Geographe du Roi" is on the one, and not on the other.

Has there been any alteration on this map? Yes.

Has it been made on the copper of the engraving, and not on the paper? Not on the paper.

What do you learn from that change in regard to the date? I learn that the map on which the word "Geographe" has been suppressed after De L' Isle has been effaced, because it would have been of double use with the words "Premier Geographe du Roi," which were added after 1718, when the privilege was granted.

Can you say possibly whether that impression (map libelled on) could have existed before 1718 or not? I am sure that this map could only have been printed after the 24th August, 1718.

You have no doubt whatever of that? No doubt.

Is it possible that there could be any other mode than by an operation on the copper itself, to insert that line in the manner in which it is inserted? I think that now there are means which did not then exist of making such an operation, but it is all but impossible that any other means could have been used.

Is there any operation on another plate of copper, not the plate of the map, by which a line could be inserted on the map after it had been thrown off? Perhaps, with a great deal of care, one might add a line to the end, or below another line.

As to the interpolation between two lines, I think it would be much more difficult; at any rate, interpolations of this nature could not be brought about on several impressions without a mathematical difference being seen on that line in relation to other parts of the title.

Do you observe on the map before you, that the line "Premier Geographe du Roi," absolutely touches the line above and the line below? It is extremely close to it, and in this case I would look on the interpolation which has been spoken of as altogether impossible.

Lord Advocate.—If the object had been only to put in the line, would that operation have taken out the word "Geographe?" The want of that word could not arise in the course of the operation by which the lower line was supplied. The word could not be taken out by means of double plates: they would require to have recourse to the first plate also, in order to change the engraving. The word could be left out by means of a penknife, or other instrument of the same kind.

Look at the back of that map of Canada, (map libelled on,) is that such ink as is generally used? It is not such ink as is in common use. It is not ink which has turned old. I think it must be composed to imitate ink, which, when turning old, assumes a brownish tint, and that the ink used here is for the purpose of imitation.

Do you observe some reddish tints round the letters? Yes, the paper having soaked in the ink, I observe a redness on the edge of the letters.

What does that arise from? I have often observed, that when I have been occasionally employed to make fac-similes to restore pages wanting in ancient books or MSS. and wanted to make an ink to resemble that of these MSS. which, having turned old, had contracted a light yellowish tint, and made use of China ink, yellow, and carmine in composition,

that the colours of which I have been speaking did not always mix well together. It has often happened, on these trials, that I have found a similar result to that which I have just pointed out.

You have now been speaking to a letter bearing date at Lyons. Look at the one next it, dated Antrim: does that appear to have been written in a similar ink? It is nearly similar.

Has it the appearance of carmine on the edges of the letters? Yes.

In forming a judgment from the ink, and the appearance you have spoken to, should you say that these are genuine writings of the date they bear, or false writings? I would think them false.

Judging from the ink alone, and the appearance of these writings, putting all other evidence aside, would you pronounce that the documents are true or false? There would be a great presumption that they are false, but that is all.

Did you, along with a previous witness, collate the brevet of De L' Isle in France? Yes.

That is an extract from it? Yes, collated with the greatest care.

By a Juryman.—I wish to know whether the ink you refer to is a manufacture of your own, or whether it is a known composition? It is not of my manufacture; it is often employed by draftsmen, and for the purpose of copying portions of old MSS.

Mr W. H. Lizars. — You are an engraver, and have had great experience of engraving during the whole course of your life? Yes.

Have you seen a good many maps of Guillaume De L' Isle? Yes.

Is it a common practice of engravers to preserve the coppers of their maps? Yes; to take advantage of making changes in the maps when alterations are necessary.

Look at the title of map B, and the title of the map libelled on; are they from the same copper? Yes.

I now shew him map No. 7 of the untitled maps. (To witness.) Is that also from the same copper? Yes.

Which is the earliest of those three maps? B is the first impression of the three.

How do you know? Because it has a sharper impression than the others.

Which is the second in point of time? It would be difficult to answer that question, as one of those is coloured, (the map libelled on,) but I think the coloured one is prior to the one in the book marked No. 7.

So that B is the first, the coloured map the second, and in the one in the book No. 7 is the third? Yes.

Do you observe a difference between the title in the first and second of these maps, and have you examined a great many maps of De L' Isle, with a view to this question? I have observed in the atlas a great many without the title before 1718. I did not observe any maps without that title after 1718.

Would you consider that the date of the map does not bear out the printing of that map? Not the casting off of the impression, but it proves the engraving of the plate.

Cross-examined by Mr Robertson. — When did you first see the documents on that map? I saw them first in the Sheriff-Clerk's Office.

Did you examine them there? I did, with very great care.

What impression did they make upon you as to their genuineness? I thought they were genuine, but I declined to give an opinion, because I did not consider that I was required to give an opinion.

For what purpose were they shewn to you? To compare them with Lord Stirling's hand-writing, and that of Mademoiselle Le Normand, and see if I could trace any similarity between her hand-writing and the hand-writing of the documents.

Did they appear to be in either of the hand-writings with which you compared them? The papers were shewn to me by the Procurator-fiscal, and the result of my opinion was, that the hand-writings were not the same; that they bore no resemblance to each other.

You are a good judge of hand-writing? Yes.

Did they appear to be written in a natural or a feigned hand? In a natural hand.

Did any other gentleman examine them along with you? Yes, Mr Gavin.

By Court.—When you looked at the hand-writing, could you tell what kind of ink was used in the letter signed Philip Mallet, or the letter signed John Alexander? I tried it, and it struck me it resembled common water-paint.

Did you observe any resemblance in the ink in the one signed Philip Mallet, and the one signed John Alexander, on the other side? I observed a very great resemblance.

Lord Advocate.—Do you see the copy of the tombstone, the corner of which is raised a little off the map—is there enough of that relieved to tell us on what is the copy of the tombstone written? I think it is a part of a map of Canada.

Could it easily be detached without injuring the rest? Yes; it could easily be done out of Court, or even in it.

Then you will have the goodness to attend to-morrow morning, and bring with you the means with which it can be done.

By a Juryman.—Would age not have brought these two documents, the one signed Mallet and the other Alexander, to the same colour? I imagine it would. I know that writings of that date are almost all of that colour.

The Court.—Are you now speaking of writings in common ink? I am speaking of old deeds such as those in the Register House.

Lord Advocate.—Do you see any redness round the edges of the letters in the document alluded to? Yes; as if there had been water floating upon the writing.

How would that produce the red? By softening the line; the reddening is merely the consequence of the colour being softened down. The same thing could occur in your lordship's writing just now.

Mr Robertson.—If it is an old writing which has assumed that brown colour, or if it is a writing of a composition of water colours, and water is put on it, in either case it would assume the reddish appearance round the edge? Yes, it would have the softened tint of the dark colour.

Lord Advocate.—Do you discover any redness on the notes of St Estienne and Flechier. There is no redness there. It is only on the letters signed Mallet and Alexander.

Do you observe redness round the letter dated Antrim? There is no redness visible there.

Can you tell what is the composition of the ink in these two letters? If I were to form a judgment, I would say sepia and burnt umber.

Are you aware there is a composition made to resemble old ink much used by persons in the manufacture of imitations of old writings? I am not aware of it.

By a Juryman.—If the ink were composed of sepia, and burnt umber, and water, would it not obliterate when rubbed with a moistened finger? I must confess I did try this, and I found it did so.

Did you not find what the composition of the ink was? It

gave me no means of distinguishing whether it was old ink or not, and did not warrant me in drawing any conclusion.

The Court.—Would a mixture of China ink, yellow, and carmine do? It would do very well.

Suppose it was not well mixed, would the carmine come out at the edge? It would be sure to do that. He would be a very inexperienced manipulator in such things if he used the carmine, because, being a heavy colour, it would be sure to precipitate.

Suppose the writing touched with a damp camel hair pencil, it would produce that effect at once? Yes; damp would produce the effect.

Mr Robertson.—Would a camel hair pencil, with water, upon writing made recently for the purpose of experiment, produce the effect you mentioned? It would produce the effect instantly.

The Court.—In your opinion, damping would make a red colour from the old brown ink? If the ink were good, it would not do that. I have seen old manuscripts very considerably injured by damp.

But did you ever see the red colour on the edge of an old MS.? I have not considered the matter so particularly.

Do you think you could take a piece of old MS. and produce the red at the edge by wetting it? It is no more than conjecture. I am trying to recollect any old deeds.

Then you conjecture it might be the case? Yes; if the ink was of a soft kind in an old genuine MS. it might produce the same effect as an ink made of the same composition I have mentioned.

Suppose a MS. having damp flung on it, and the ink of a soft kind, the same effect would be produced that is produced here? I should think so.

Mr John Smith. Interrogated by Mr Innes.—You are of the company of Leith and Smith, lithographers? I am.

You were employed to make a fac-simile from that map before you, under the superintendence of Mr Mark Napier? Yes.

Did you do any thing to injure the appearance, or texture, or colour of the paper? No; I applied no liquid to it at all.

Have you any idea of the process by which the blotchy appearance of the writing in Mallet's letter was produced? It must have been produced by some oily substance applied to the paper.

Does it appear to you to have required more than one operation? Two at least.

Explain your meaning? First, it has been traced with a much thinner line than it has now; it has then either been shaded with a liquid, or else the blotchy appearance arises from the ink sinking in the paper.

Did you remark in some of the letters a double tracing? No.

Do you observe whether there are any of the writings sunk in that map? Both the letters of Mallet and Alexander are shaded and sunk.

Is there any resemblance between the appearance of the ink in both these letters? They resemble each other a good deal in the colour, but they are not exactly the same. There is a reddish line through them both.

Pierre François Joseph Leguix. Interrogated *in initialibus* by Mr Robertson.—Did you get any thing to come here to give evidence? Nothing whatever, merely my expenses.

Have you been promised any thing? Yes; I was promised a thousand francs a-month to come hither.

What have you actually got? Five hundred francs—about L.20. If I were to stay here a month, I was to receive a thousand francs, and I have received seven hundred in the whole. A hundred when I started from France, a hundred when I came here, and five hundred besides, and my expenses from Paris.

Have you got your expenses paid over and above the seven hundred francs? It is over and above.

What expenses? The first time I came here I received L.18 by the gentleman who was engaged to pay my expenses.

What have you got altogether, expenses and all? When I returned to Paris lately, I received L.18 for expenses to take me back.

How much when you came away first? Five hundred francs.

What did you get next? Nothing but my travelling expenses.

How much was that? L.18, to return to Paris.

What did you get when you came over the second time? L.18.

Have your lodgings been paid here this time and last time? This time they have not been paid, but the first time they were.

When did you make your first bargain? About four months ago.

What was it? That I should receive, besides travelling expenses, a thousand francs a-month.

Was it on that understanding that you came here first? Yes, it was.

What did you get to pay your expenses in coming over the first time? They were paid for me.

By whom? I do not know; it was the gentleman with whom I came over who paid the expenses the first time.

What is his name? Monsieur Branchard.

With whom did you make the bargain of receiving a thousand francs, over and above expenses? With Monsieur Branchard.

What is he? I do not know him; he called several times on me.

Mr Innes.—The bargain, my Lord, was to this effect, that witness should have, from the time of his setting out from Paris, L.40 a-month during his absence from France, and his whole expenses. He found it necessary to return, and received a sum to pay his expenses, and at Paris also he received L.18; and, I believe, he has received these two sums, and five hundred francs.

Mr Robertson.—What are you? At one time I was a printseller.

What are you now? I sell gentlemen's caps.

Did you make any new bargain when you came back the second time? No.

Do you hold that bargain to be still the bargain, a thousand francs a-month? Yes, it is.

How much more do you expect? I do not know.

Have you a written agreement in your pocket? Yes.

Where is it? (Witness produced it.)

Is it stamped? Yes.

The following engagement took place on 6th February, 1839. (It was read.) "I do engage to set out with Monsieur Branchard on Monday, the 11th of the present month, or on one of the following days which he may please to fix, to set out for Edinburgh, where I am to be a witness: the expenses of the journey to go and come back are placed to the account of Monsieur Branchard, and I shall receive an indemnification of a thousand francs, five hundred before starting, which I acknowledge to have received, and the remaining five hundred francs will be paid after the trial is over, before leaving

Edinburgh.—I, Eugene Branchard, adhere to the conditions already expressed, to pay the travelling expenses going backwards and forward, and to pay the sum of five hundred francs before leaving Paris to Edinburgh." This agreement was attested by witnesses.

What is your annual income arising from business?

The Court.—Stop; he is not bound to answer that.

Mr Robertson.—He may answer it if he chooses.

The Court.—The question is incompetent.

Mr Robertson.—If your Lordships rule it to be incompetent, of course I shall not put it. If it is one which he may decline to answer, you may tell him so. I put the question, What is the amount of his annual income?

The Court.—Tell him as a witness, that the question that is put to him he is not bound to answer unless he pleases. Witness. My monthly receipt is about a thousand francs.

Mr Robertson.—What is your monthly profit? My monthly profit is from five to seven hundred francs, but I cannot state precisely.

Mr Robertson.—I object to his admissibility, on the ground that he has received reward over and above what he was entitled to receive.

The Court.—He has received nothing but what, in the circumstances of the case, he was entitled to. The person calling upon him to leave his country, was bound to give him what he demanded. His trade may suffer by his absence, and he was by no means obliged to come. And not one penny more than is proper has been given—that is the opinion of the Court. I knew a gentleman at our bar that was taken over to Ireland to give evidence, and he was paid a very large sum of money.

Mr Robertson.—I understand the law to be——.

The Court.—We have ruled.

Mr Innes.—Where is your place of business? On the Quai D' Orsay.

Where was your first shop? On the Quai Voltaire.

Do you remember, in the winter of 1836 or 1837, a person coming frequently into your shop in search of maps? I do.

Did you understand of what country that person was? I think he was an Englishman.

What were the maps he sought for? Maps of Canada.

For what length of time was he paying these visits to your shop in search of maps? Five or six weeks.

Did you sell or procure him several maps of Canada? I sold him several. Was there any particular date he wished to get? Yes, 1703.

Did you sell him a map of 1703? I did.

Was that after a considerable search for it? The last inquiry, or last search.

Did he come any more after getting that map? No.

Was the map of Canada of 1703 a coloured map that you sold to him? I cannot exactly tell.

Look at that map—was it similar to this? It was similar to this.

Was any writing on the back of it? None.

Did the person say who he was, or how he wished the map? No; I remember there were several troubles in Canada at the time; I was led to suppose the demand for the map was in consequence of these troubles. He inquired for no other map than 1703. That was his object.

Did the purchaser drive a hard bargain? No.

You see the prisoner? Yes.

Was it he? No.

What did he pay for the map? About a franc and a half, or fifteenpence, but not more.

What did he pay for the other maps? I sold to the amount, previous to that, of seven or eight francs to the same individual who came so often to my house.

Hugues François Beaubis. Examined by Mr Anderson. We are anxious to bring out a fact. Have you an agreement in your pocket? Yes.

Is it the same as that? (shewing the agreement of preceding witness.) Yes.

Mr Robertson.—If the amount of remuneration, sufficient for one man, be given, it by no means follows that the same amount, given to another, is proper. Therefore, while I now proceed with this examination, I wish to know his station and condition of life, because a thousand francs may be applicable to one, while it is not applicable to another.

What are you? A shoemaker.

Have you a shop of your own, or are you a journeyman shoemaker? I work in my own room, on my own account. My room is my shop.

How many rooms are there in the shop altogether? Room and closet—bed-closet.

Where is it? Rue des Canettes.

Are you a porter to a large hotel? I was at one time, but not now.

Where? No. 5 Rue de Tournon, Fauxbourg St Germain, —a doorkeeper of a gentleman's private house.

When did you leave that service? In the month of November last.

What were your wages there? 200 francs a-year. (L.8.)

Has your income improved since? It has increased.

Were you bred a shoemaker originally? Yes.

Mr Innes.—Did you work at your trade when you kept that house? I worked in my porter's lodge.

Were there a number of families to whom you acted as porter? Several.

You had a porter's lodge free? Yes.

So that you had your lodge, your trade, and £.8 a-year? Yes.

Did you live in the porter's lodge? Yes, with my wife and family.

Did you work in it? I did.

What was the sum you first demanded for coming to Scotland? 1000 francs in all.

For how long? For a month.

And an allowance for the time afterwards? Yes, at the same rate.

What is the date of your agreement? 6th February, 1839.

Mr Robertson.—You said your income had improved since November; in what way, when you have no wages, and no lodge to live in? I can only live by my labour, and having more time to exert myself, it is improved.

What profit did you make per month, in November, December, and January, till the beginning of February, after you gave up the hotel? It is impossible for me to calculate that, —one day it was more than another,—it has improved, because I have more time, — I cannot tell the monthly profit arising out of my labour.

Are you making 100 francs per month from your labour? At times I do, and at another time much above that profit.

Has it ever reached 200 francs a month since November last? Yes, indeed.

Have you had any higher, and how high? I cannot tell, but I have earned above 200 francs a-month.

Mr Anderson.—The objection above stated and overruled, we are inclined to state again as an objection to the credibility of this witness. The facts being now different from what was

before, we take the judgment of the Court on this case. The facts are these, that this man had L.8 a-year before, now he earns 200 francs at best per month, and what is now offered to him is L.40 a-month, besides expenses; so that this individual, who in November, in addition to his labour and lodge, was making L.8 a-year, is, in addition to his whole expenses of living and travelling, paid at the rate of L.480 a-year. Mr Alison says, "As every witness must, sooner or later, be paid his travelling expenses for coming to the trial, it follows, that he is not to be considered as disqualified, or even suspected, if he has received a sum of money adequate, and not more than adequate, for that purpose, either from any of the public authorities, or the private party injured. Without doubt, the proper party to apply to, in the event of the witness being so indigent as to be unable to advance his own travelling charges, is the Sheriff or the Procurator-fiscal of the county where he resides, who are frequently in the practice of making such advances to the poorer class of witnesses who have been cited for distant trials, if they are really unable to find money to transport themselves. Upon the same principle, there seems no absolute objection to the private party or his agent making a similar advance, provided it is really required, and no more is advanced than is necessary to convey the witness to the place of trial. Such a proceeding, however, from the suspicions to which it is necessarily subject, and the abuses of which it may be made the instrument, is extremely hazardous, and should never be resorted to, except in cases of real necessity, and then in the most open way, and with the greatest precaution against any sinister purpose being understood;" so that you will see that the law hitherto laid down is, that there shall be such a sum paid to a witness as will be sufficient for the payment of travelling expenses. Hume also lays it down in nearly the same terms. Is this a reasonable remuneration? This is over and above the living and travelling expenses. It was stated on the last occasion, by one of your Lordships, that the witness was brought from abroad, from whence you have no compulsitor to bring him. It may be unfortunate for the prosecutor that he has to deal with French witnesses; but the interests of the prisoner are not to be interfered with.

The Lord Advocate.—I am inclined to leave the objection entirely to your Lordships. The rule of law, properly speaking, applies to a witness of this country. In that case, the witness, in coming to attend Court, is only necessarily discharging a public duty; and although he is entitled to get his

expenses, when he gets more there is ground for saying that it might interrupt the evidence. We are engaged in no such case, nor is any question before us of this sort. This is a witness brought from France, who is not obliged to obey your orders, and he is entitled to have such a reasonable allowance made to him as will remunerate him on leaving his country and his family. Here is a witness making 200 francs per month of profit, who is a married man with a family. His trade depends, of course, on his keeping his customers. The question comes to be, whether, allowing him L.40 under the circumstances, — leaving his family, and putting in peril his trade,—whether that allowance is of such a large amount, considering that he is leaving his native country, and coming to another country, the language of which he does not understand, — whether that is an allowance that tends to corrupt and destroy his evidence, is for your Lordships to say. I leave the case in your Lordships' hands, simply with this statement.

Mr Robertson. — The simple question is, whether we are entitled to exclude; and we are bound to state our objection to the Court. I understand this, from the preceding judgment of the Court, to be a question of degree. This witness is not a professional witness, — not like a professional man going to Scotland or Ireland on professional matters; he is an ordinary witness, called on to give evidence to occurrences, in an individual capacity, not connected with his profession at all. The question, then, is this: is there any amount of payment that could exclude a witness coming from a foreign country? Here there is no extreme case. The question, then, is, has there been given to him a reasonable compensation? He was a servant, a porter, and shoemaker, till the month of November last, and his annual wages were L.8; and he states the largest sum he could now earn, 200 francs a-month of profit, by his trade,—that is, L.8 a-month; he is now to receive under this obligation, besides the whole payment of expenses, at the rate of L.40 a-month. There is due under that obligation, or will be due on the 6th day of May, L.120 sterling, for three months of a man's attendance, whose wages were L.8 a-year, and whose profit in a month never exceeded 200 francs. So he gets four times a-month the amount of his whole income, besides all his expenses, and more than all his wages per annum each month. The question is, does not this amount to an undue payment to this witness for coming here? I say it is a question of degree, and to a man in his condition, I say a payment of L.140 sterling, besides farther sums due, is a greater

bribe than ten times, or twenty times, that to a man in a better station; and if the case be not one of an ordinary witness under ordinary circumstances, can there be the slightest doubt that this would have cast him had he been in Great Britain? Does the circumstance of compulsitor or no compulsitor affect the purity of the witness put into the box; and let me remind your Lordships, that the purity of our law is based on this, the fear that the witness shall commit perjury. I know of nothing that will tend more to the introduction of perjury than French witnesses coming into the country to inundate our courts with testimony, on receiving beyond what their brightest hopes ever entitled them to expect.

Lord Moncreiff.—Do you maintain that any thing given to foreign people beyond the mere expenses, is to be taken as a general rule that we shall reject? Mr Alison rests solely on witnesses in this country.

Lord Mackenzie. — To lay down a rule that a foreign witness is to receive no payment at all except expenses, that would be laying down such a rule that no witness would be brought here at all. He would not come on such conditions without expenses for loss and inconvenience. Therefore, it is absolutely impossible that we can apply here the rule laid down in Alison, nor is there the least reason that we should. It is plain that it never could be a general rule. I cannot say that the indemnification is of such a kind as to disqualify this witness. He has been earning about 200 francs of profit per month—he has a family to look after—he is resident in Paris, and knows nothing about Scotland, — and the question is, whether an offer of 1000 francs for one month (and the trial was delayed by an accident, and delayed on the application of the prisoner,) is any thing unreasonable. I cannot see, and I have no reason to think, that the public prosecutor had any view whatever that was unfair in arranging upon such terms, and I cannot see that the terms are so excessive as in any way to affect the mind of this man. I cannot, however, lay down the rule that you are to give any sum you please to a witness, and why? Because, if he gets an enormous sum, the inference would be inevitable, that he had got it for some undue purpose. If a witness were paid L.10,000 for coming here to give evidence, there would arise a suspicion from that, because it would be doubted that so large a sum was necessary. But here the sum is not of such a kind as to produce any doubt. The witness asked the sum, and would not take less. I do not know but that most men in his situation would have done the same.

He leaves his family, — he undertakes the labour and hazard of a journey, — and all the inconvenience and all the consequences that result from his going from home, and the public prosecutor is entitled to give him a proper remuneration.

Lord Moncreiff.—I am of the same opinion. The rule of our law is important, and it would be very improper if any thing should interfere with it. But if we are to take such objections as these, the result would be, that we could never try a question in this Court, if it is to depend on the testimony of poor persons resident in a foreign country. Because they, being under no compulsion to come here, may say, We will not come unless you pay us a sum that shall secure us against any loss that we may suffer, amply and fully, either in our trade or in the affairs of our family. And there is another rule in our law as important as this; and that is a rule that excludes ultroneous witnesses. I would think that man worthy of suspicion if he had come here from France without making any stipulation as to what he should receive; because, not being liable to citation to this Court, if he came upon an agreement with the prosecutor to support his cause without a remuneration, I should infer, that there were some other motives within his mind. But what is the case here? There is no case here of an indefinite bribe or promise of reward for the evidence which the witness is to give. Here we have a specific written agreement. The witness would not come unless they entered into a specific agreement with him. Is it not plain, then, that the inevitable consequence would be that we could bring no foreign witnesses here if they were to be denied an ample and full remuneration. There is no unfair dealing here. The result is, an agreement which the man insisted on, and that being entered on he agrees to come. It would never do to say that he shall receive nothing more than his bare expenses. I mentioned before the fact of a friend who received a large sum for going to Ireland, and I presume he would think twice before he would go to France, and subject himself to the hazard of the voyage, and loss in his profession here. And will not this rule apply to a poor shoemaker living in Paris? Is his testimony to be rejected, because, before he will leave his trade and his family, he requires that there shall be a precise stipulation for loss of business and for leaving his family? We cannot measure this unfairly. Beyond all doubt there may be a case of clear excess, in which it is palpable that money is given for influencing the man's mind. If there were such a case here,

I would say that the witness was on no account to be received. His trade is that of a shoemaker. He had the advantage to be porter to a mansion, which he left to prosecute his business, by which he earned a profit of about 200 francs per month. He has been withdrawn from his business to come here, and no doubt the money given to him is a great deal more than his earnings would amount to; but I put it to the counsel, Is he to receive no more than he made in his own room, for leaving his family and his native country, to come to a foreign land, to give evidence in a court of law? I ask, if a witness could be obtained in any case on such a stipulation? The public prosecutor gives him 1000 francs for a month; and he thinks that would be all he would require to give him. And it would have been all if the motion for delay had not been made; but delay was craved and given, — craved on the part of the prisoner; and then the objection is taken, that he shall not be a creditable witness, because he may demand a certain remuneration for the time he has been here. A case would never be tried, in which it was necessary to bring foreign witnesses to this country, if such a rule were to be laid down. I am clearly of opinion, that this witness ought to be received. If the prisoner's counsel thinks it hurts his credit as a witness, they may make of it what they think proper. To my mind it makes no difference as to the credibility of the witness.

Lord Cockburn. — I concur in the opinions that have been expressed, and I have little to add. The question is not before us on the credit but on the admissibility of the witness. The credit of the witness would be far worse with me if he came without ample remuneration and a proper agreement. Nothing is to be done that corrupts, or tends to corrupt, or discloses an intention to corrupt; because if there was a design, or the appearance of design, the witness could not be admitted. But is there any thing in the facts here to shew either the one or the other? Looking at the facts of this case, I am not convinced, because this man has made a good bargain, (and I am not satisfied that he has made a good bargain; on the contrary, had any judicious friend made an arrangement for him, he would have secured for him a larger amount,)—I am not convinced, I say, that because this man has made what may be thought a good bargain, that his evidence is to be inadmissible. I do not think he has made a good bargain. The question is not, whether the witness makes an unprincipled demand. I will concede, for argument's sake, that he

has been unreasonable; but is it unreasonable in the party who is in his mercy to comply with that demand. A prisoner at the bar says he is innocent; witnesses from abroad will not stir a step, and how then is the guilt of the criminal to be proved. The prosecutor can only overcome that repugnance to leaving one's native country and family which is quite natural, by giving them a certain sum of money that will satisfy their demands, and is not unreasonable. Is a man's life to be put in jeopardy, who may have witnesses to prove his innocence, by laying down a rule that the witness is not to get a remuneration which he demands, and is entitled to have. I repeat again, that his demand is not so outrageously great as to tend in the least degree to improper evidence. The witness is as free to speak here as any man alive. He has got a regular bargain in his pocket; and he is as independent of the Lord Advocate as the Lord Advocate is of him.

Lord Meadowbank.—I am perfectly of the same opinion.

Witness was then recalled.

You were porter at the house Rue de Tournon? Yes.

Was Mademoiselle Le Normand one of the number residing there? Yes.

It was your duty to open the door to any one coming to visit the residenters? Yes.

Do you remember in the winter and spring 1836 and 1837, an Englishman coming to visit Mademoiselle Le Normand? Frequently.

What name did the person go by among the servants of the house? The Englishman.

Is that the person? (pointing to the prisoner.) Yes, sir.

At what time of day or night did he use to come? He generally came at eight o'clock at night.

Did he use to stay a considerable time? The gentleman used to come and stay from eight till ten, which was the hour I usually left the house.

When he did not go in did he sometimes leave letters at the door? He used to give me a letter, desiring me to give it to Mademoiselle Le Normand.

You say that this person came often, what do you mean by coming often? He came about eight o'clock almost every evening.

How long do you think this continued? During the space of seven or eight months.

At what season of the year did the visits begin, and when did they end? I saw the person in winter and in summer.

Do you remember, some short time after his visits stopped, of a young man coming about the house said to be his son? Yes.

How long after might it be that the young man came about the house? It was about the month of October and November that the son began to come.

How long after the father's visits stopped did the son's visits begin? Perhaps three weeks or a month.

What profession was Mademoiselle Le Normand? A fortune teller on the cards,—a drawer of cards.

Did she make her living by that? She did.

Has she a sign as a bookseller? Yes.

Did she carry on any trade as a bookseller? No.

Cross-examined by Mr Robertson.—What are the words of the sign? Libraire de Mademoiselle Le Normand.

Are the words "Auteur-Libraire" on the door? Yes.

Is there written below on the sign, "*Bureau de Correspondance?*" Yes, on the sign, and on her own door.

Tell us at what time the visits of the prisoner began? I cannot tell about the beginning, but I can tell about the end, and that was nearly about the end of November.

The Court.—You said the son came in October or November; how is this reconcileable? A secession in the visits took place in October or November.

And had it been for the eight months preceding that, that these visits had been going on? Almost every day preceding the October or November.

Were they chiefly in the evenings? Yes.

The Lord Advocate.—There are two persons at the bar, which of them is the person who visited Mademoiselle Le Normand? (Witness identified the prisoner.)

Did you know where the prisoner resided? I did not.

You never were charged with any letter to carry to the prisoner? Never.

A Juryman.—Seeing the prisoner called so often on Mademoiselle Le Normand, did it never strike the witness what his object was in calling on her?

The Court.—The question is, Do you know the cause of his visiting her? No.

Juryman.—Did these frequent visits not strike you as singular? No, it did not concern me.

Did other Englishmen call on her? No.

Did other male visiters call frequently on her? No.
Lord Advocate.—How old is she? 75.

The Court adjourned at half-past seven, P.M.

THIRD DAY.

Wednesday, May 1, 1839.

THE COURT MET AT A QUARTER TO TEN O'CLOCK.

Mr W. H. Lizars, being called, with the approbation of the prisoner's counsel, was sent by the Court to the robing room to separate the copy inscription on the tomb-stone from the back of the map of Canada, which he was instructed by the Court to do with the utmost care, so as to injure neither the map nor the document to be operated upon.

Dr Fyfe. Interrogated by Mr Innes.—Have you made your experiment on that portion of the paper given to you, from the excerpt libelled, for that purpose? Yes; and the result is, that I detected in the paper a considerable quantity of brown colouring matter, and upon some parts of the same paper more of it than on others.

What is the colouring matter? It seems to be vegetable, or animal—organic matter.

Did you come to any other result? Yes; there is also some uncombined acid in the paper.

Mr Robertson.—Is the paper destroyed? Yes, it is boiled down.

Mr Robertson.—The paper was boiled? Yes, in a solution, to extract the colouring matter.

Court.—What acid did you detect in the paper? Common sulphuric acid.

Can you say that this brown matter is different from what is found in old coloured paper? It seems to be different from paper discoloured by exposure.

Is sulphuric acid used for the obliteration of ink in paper? It may be; but other acids are more frequently employed.

I suppose there is no formation of sulphuric acid in paper merely from age? I am not aware of it.

Mr Innes.—Was the colouring matter found in the paper of the same nature with that which you detected in the outside? Yes; it seems to be of the same nature.

A Juryman.—In the process of bleaching, is sulphuric acid ever used? Yes.

Then suppose the paper to be made of rags, might not the sulphuric acid employed in the process of bleaching remain in the paper? In the process of converting the rags into the paper the acid would be washed away. Then, diluted oil of vitriol is used in the process of bleaching, but it is not used in the manufacture of paper.

It is used in the bleaching of clothes, and rags are used to make paper, will not a part of the acid remain in the paper? After the bleaching, a great part of it is washed away, and were any remaining it would be washed away in the process of converting the rags into paper.

The Court.—Can you say that any part of the oil of vitriol could be derived from the rags from which it is made? No; the rags are washed in a stream of water, to carry away every excess of acid; and I do not think that there could be any presence of sulphuric acid in the paper.

Considering the washing in the first instance, and the pulping of the rags in the second, do you think there could remain any of the acid in the paper? I should have considered it next to an impossibility.

This is paper apparently of an ancient date; you have read accounts of paper making of an ancient date; and have you met with any instances of sulphuric acid being used in the manufacture of ancient paper? I am not aware of sulphuric acid being used in the manufacture of old paper, in the accounts of it which I have read, and I have read of it generally.

Have you any notion of any use to which sulphuric acid could be applied in the manufacture of paper? No.

Juryman.—Rags, from which paper is made, often come from abroad, and are in a dirty state, and prior to being used, must undergo the process of cleaning; do you know whether sulphuric acid is used in the process of cleaning? I never saw it used.

In regard to the colouring matter,—suppose the colouring to be in the paper before the acid that has been found in the paper, would the acid have affected the colouring matter? It might; but it would depend entirely on the nature of the colouring matter.

Would the oil of vitriol affect the colour, if applied to it now? It may be so very weak as not to affect it. Oil of vitriol does affect the substance of the colouring matter in the paper when it is strong; it darkens the colouring matter, and of course makes the paper darker.

Could the colour of the document have been imparted to it by peat smoke? I can speak of coal smoke, but I cannot speak particularly of peat smoke.

I wish to know if you think it would affect the paper in that way? It would not affect paper as that paper has been affected; for that paper is different in different parts. It would have been of a uniform colour if it had been operated upon by smoke. Peat smoke, in its general character, is not different from smoke from other substances, and not liable to be acted on by chemical agents.

Do you think the exposure of that document to damp or to the fumes of burning sulphur, would leave the colouring matter in it? Not at all.

Would it leave any other acid, if the paper had been exposed to the fumes of burning sulphur? It would not leave a free acid; it would absorb some small quantity of the sulphur; but the sulphur, distinctly speaking, has not the distinctive character of an acid.

The Court.—Would it leave any such acid as you detected in the paper? None such.

Dr Madden. Interrogated by Mr Innes.—You were directed to take charge of a piece of paper taken from this excerpt to make some chemical experiments upon it? Yes.

State the result. I found very little difference in that paper from other old paper apparently of the same age.

Did you find proof of the existence of any colouring matter in it? Yes; apparently vegetable.

Did you detect any quantity of uncombined acid in it? It did give the indication of uncombined acid. I found sulphuric acid in the paper.

Would it have the effect of making the colouring more effectual in the paper? Not that I am aware of.

The Court.—By effectual, you mean that it would make it darker? It might do so in some cases; but I think not.

You said you did find a material difference between this and other old paper; do you find colouring matter of the same kind in other old papers? The leaves of old books contain equally as much colouring matter as that paper.

You found sulphuric acid in that paper, and sulphuric acid in other old paper? Yes.

Was there a difference in the nature of the colouring matter in the old paper that you tried, and that which you got from the Court? I saw no chemical difference in the colouring matter.

Had you applied the same tests to other old paper? Precisely the same.

Juryman.—Would peat smoke give it its present colour? I am not prepared to answer that. I never saw it tried.

Do you think it might? It possibly might, and it might not.

By Solicitor General.—Explain the process you followed. I first used the ordinary tests, and found that all papers are pretty nearly the same. I tried bleaching, and found it easier than in some old papers, and not so easy as in others. I macerated it, and boiled it, and satisfied myself by the usual tests.

James Watson. Interrogated by Mr Innes.—You are sheriff clerk for the county? I am.

You are aware that a warrant was granted by the sheriff to search for documents in the prisoner's house immediately after his apprehension? Yes.

Did you go in person to see it executed? I did.

Did you obtain the prisoner's keys? I found him in the dining room at breakfast.

What day? 14th February.

Had you authority to get his keys? One of the party, I think, had authority to get them. I got certain keys from the prisoner's wife and from his sons, and opened some of the drawers, and a portable writing desk, and some other lockfast places, and found some papers in them which I carried away.

Are these the papers? (From 40 to 53 of productions, being a correspondence between Mad. Le Normand and the Earl and Countess of Stirling, from 17th October, 1838, to 4th February, 1839, inclusive.)

The Court.—Such of them as you found upon you must read.

Mr Innes.—You saw markings in red ink on them? Yes, numbers.

Look at No. 40, a paper entitled, "Translation of M^elle Le Normand's letter to the Earl of Stirling, dated 17th October, 1838," (No. 40 of Productions.) Look at 41. (The

papers were shewn in succession to the witness, who identified the whole of them.)

Mr Robertson. — I admit that these are all the documents founded on.

Mr Lizars was then called, and brought the copy inscription from the tombstone, which he detached safely from the map.

The Court.—You applied moisture to the back of the map, and took off this document? Yes.

It is written on the portion of a map; look at the back and see if you observe the words "*du Roi*" there? I do.

What are the other letters before "*du Roi?*" They appear to be *ier*.

Mr Innes. — There is a long writing on the map beneath where this paper was pasted.

The Court. — There seems to be a document there pasted on the map, and you found that under the inscription? Yes, the moment I took the inscription off I observed it.

Mr Innes.—Have you any observations to make on the ink in which the tombstone inscription is written? It is a red coloured ink.

Solicitor-General.—I propose this be translated.

The Court to the Jury. — Gentlemen, the paper found under the inscription bearing to be taken from a tombstone at Newtonards is about to be translated.

Mr Innes. — It is to the following effect: "They have shewn me a letter of Fenelon, written in 1698, in which there is mention of a grandson of the Lord Stirling, who was that year in France. This is the way in which he expresses himself on that subject: 'I charge you to see this amiable and good Irishman, Mr John Alexander, of whom I made acquaintance some years ago. Madame de Lambert will present him to you. He is a man whom all admire, and who has been in the best society.' S. P."

To the Witness. — Comparing the ink of that writing now discovered on the map, with the ink of the other documents, or the other parts of the sheet, does it occur to you that it resembles the ink in which the letter of John Alexander is written? I cannot see any resemblance.

Do you not see some reddish appearance about it? Yes, there is a reddish appearance, and there is a good deal of resemblance in the hand-writing, but I should like to examine it more particularly before I give an opinion.

The Court.—You can be shut up if you please to examine it.

Mr Robertson. — I have not the least objections to Mr

Lizars doing any thing he likes with the paper. I have the most perfect confidence in him.

Mr Lizars then retired to examine the documents.

Mr Innes to the Jury. — Gentlemen, there was read to you yesterday, a minute given in explanatory of the way in which the documents proposed by the pannel to be taken in evidence in his action against the Officers of State had come into his possession. He afterwards gave in a specific condescendence in regard to them. The Lord Advocate moved that the prisoner should be examined before the Court, which was accordingly ordered, and it took place in the Second Division. The following declaration* was then emitted by the prisoner. (The declaration was then read by the Clerk of Court.)

The translation of the letter libelled on in the indictment, (p. 24,) said to be left in the cabinet of Le Normand on 11th July, 1837, referred to in the judicial declaration, and produced in consequence, was then read. Then two letters from his son, Eugene Alexander, conveying to him intelligence of the discovery of the English documents, (part of No. 4 of Inventory of Productions,) then interlocutor pronounced by their Lordships of the Second Division, and report, and supplemental report of Mr Thomson, 3d January, and 28th February, 1839,† were read.

The Court to the Jury. — In regard to Mr Thomson's report, you have nothing to consider but this, that such a report was made to the Court. It may be true or false for aught we know. It is proper to explain to the Jury, that the letter sent by Eugene Alexander to his father, at Paris, with the intelligence of the discovery of the English documents, bears to be charged single postage in England, but double in France.

Mr Lizars now returned. Interrogated by Mr Innes.— What is the result of your examination of the hand-writing of the paper found below the tombstone inscription? My first impression is not strengthened by the examination.

The Court.—That is to say, that you are not of opinion that there is reason to think the two hand-writings are the same. Have you any other remarks to make? I still think that any damp substance might produce what I stated yesterday. I tried the experiment of damping, and succeeded,

* Appendix to Introduction, p. xcv.

† Appendix to Introduction, pp. civ—cix.

which confirmed me in my former opinion. I found that the ink could be washed off if it was not indelible.

Solicitor-General.—Look at the date 1723, on the margin of that tombstone inscription, and read the connecting words? "Stratford-on-Avon, October 6, 1723." Examine particularly the number 7? It has been another figure, but I cannot say particularly what figure it has been.

Do you not see a curvature about the middle of the figure, as if it had been the figure 8? Yes, I do; but not so very distinctly as to enable me to say that it was an 8. It might be any curved figure. It might have been 2, 5, 6, 8, or 3. It is evidently a mistake corrected.

Has it been an erasure? No; it has been superinduced; just dried up with the finger or a bit of blotsheet, and corrected.

The Court.—Look at it again: are you sure that it is just a blot, and that the seven has been written over it? Yes, I think decidedly that it has been another figure.

The whole letters of Le Normand to the Earl and Countess of Stirling were then read. (Pages 62 to 83 inclusive.)

Mr Innes.—I trust my learned friend will allow an inaccuracy in the translation of the letter of 8th January, 1839, to be amended. It is in reference to the man on the quay, "when asked if he would recognize him, I think so." Now, the words in the original are of importance. "On lui a dit, le reconnaitrez vous? *je le crois;*" the question is, should the translation be "would" or "could?"

Mr Robertson.—Give us both; I have no objection to either.

Mr Innes.—Then I read it "could."

The extract from the deed under private sign manual, between Le Normand and the Earl of Stirling, (No. 53 of Inventory of Productions,) was then read, and an extract Apprising Robert Keith against Janet Alexander* was put in.

John Tyrrell. Interrogated by Mr Innes.—State your profession? I am at present a general agent in London.

Were you formerly acquainted with the prisoner? Yes, I became first acquainted with him in October, 1829.

Where was he then living? In Jermyn Street, Regent Street.

What were his circumstances in regard to pecuniary affairs? Very bad.

* Appendix to Introduction, p. xiv.

Was he in great distress for money? He told me so.

Do you remember particularly if he was unable to pay his lodgings? He was not; and he informed me that his butcher's bill at Worcester was unpaid; and I understood that his family were in great distress at Worcester.

Did he tell you how he was employed after his return from France? I scarcely know how he was employed, excepting for a short time before I became acquainted with him.

How was that? In endeavouring to raise money to carry on his cause, and for the support of his family.

Did you learn that previously to this he had been a bankrupt? I did not learn that from himself.

For what did he seek your acquaintance? I was introduced to him by another person, for the purpose of raising money upon his bond — a person of the name of Morant.

What did he represent to you in regard to his affairs and prospects? He stated his prospects were very great in regard to his claim and title, and he required a sum of money to complete them.

What claim? It was, as I understood, to take possession of the lands in the state of Maine. He required to send an agent there to take possession, and to prosecute his claim here.

Did he say whether he had made good his claim to the lands in Maine? Certainly.

Did he say to what extent? Very large, enormous; I think eleven millions of acres altogether. The substance was, that Mr Banks was out, and ascertained that he had these lands, and he only required to send a person to take possession; that part of the lands was occupied, and part not, and that the occupiers were to give a quarter of a dollar per head per acre, to be confirmed in their titles.

Did he say they were ready to pay that?

Mr Robertson.—The prisoner said that they were ready to pay, as he understood from Banks? I understood it from both.

Did he say any thing as to the unoccupied portion of lands? It was stated to me that he was entitled to the whole.

The Court to the witness. — Observe that what is said by another, unless in the prisoner's presence, is no evidence.

Mr Innes.—Did you hear from the prisoner, or any person in his presence, that he had an undoubted claim to those possessions? I understood it from himself.

Did he say any thing in regard to his Scotch estates, and his right to them? Certainly.

What did he give you to understand? That if he had money to prosecute his claim in Scotland, he would obtain possession of Gartmore, and Tulliebodie, and Tullicoultry, and Menstrie.

Did you agree to endeavour to raise money for him? I did.

How did you set about it? By shewing Lord Stirling's claims, and that he would probably come into possession, as I was instructed by himself.

A Juryman.—Did he say "probably?" Yes.

Mr Innes.—Did you effect several loans for him? I negociated several transactions upon which he obtained money.

Do you remember the sum he obtained from Mr Ward? L.10,000 was the sum agreed for.

Was that agreed for on the representations you made as to his prospects in this matter? Mr Ward agreed to give the money, and I assisted in the transaction. I had better shew the commencement of the money lodged at the bankers. Here is my book.

Mr Anderson.—If he read from that book, we are entitled to look at it. Whether he applies to notes made at the time, or to a book kept at the time, we are entitled to see them for the purpose of cross-interrogation.

Witness.—I have not the slightest objection to let the book be seen.

Solicitor-General.—I by no means admit the doctrine of my learned friend, but it is time enough to discuss it when it comes before us.

Mr Innes.—Was the money paid to the prisoner, or to his bankers? Accounts were opened with the Messrs Whitmore, bankers in Lombard Street.

The witness read from his memorandum book, to the effect that L.4000, to the credit of the prisoner, were discounted by the Messrs Whitmore on Mr Ward's security in February, 1830. The bill was drawn at twelve months on the 19th January.

Mr Robertson.—I do not know what my learned friend wishes. The witness cannot read from his memorandum book. I am making no insinuation against the book, but we are here on a criminal trial, and bound to watch every thing. I stop the witness from reading from his book.

Mr Innes.—Well, did he afterwards procure more money

on the same security? I believe so; Lord Stirling and Mr Ward had many interviews together.

You know the transaction which was made for L.10,000, and you know that a part of it was paid to account of the prisoner? Certainly.

How long were you doing business in this way for the prisoner? From October, 1829, till February, 1831,—about a year and a half.

Did you make many transactions for his behalf during that time? Several.

Can you give a rough guess of the amount of money you raised on his bonds at the time? I cannot say that. Property was purchased on these bonds. A number of valuable paintings were purchased, and the greater part of them were lodged for Mr Ward's collateral security.

Do you remember paintings being purchased on his bonds, and sold immediately? Some were sold immediately by auction to raise money.

The bonds were granted by the prisoner? Yes.

And paintings were purchased with the bonds, and some were kept for security to Mr Ward, and others were immediately sold by auction to raise money. Is that your statement? Yes.

Can you give us some idea of the amount you raised for the prisoner during the eighteen months of your acquaintance with him? I should suppose altogether about L.13,000, including Mr Ward's L.10,000.

That is the real sum of money he got? That went through my hands.

In cash? I cannot say.

But was he benefited to the extent of L.13,000? I should say so.

Can you tell us the nominal amount of bonds for which pictures were purchased? First, there were L.3000 in bonds to Mr Philippard, L.2200 in bonds to Mr Chetwynd, L.5000 to George Pennel, L.15,180 to the same, L.14,478 to William Lambert Brandt.

Mr Robertson.—That is about L.50,000 in bonds, and L.13,000 in money got for them.

Mr Innes.—Do you remember his leaving London after his getting some of the money, and going back to Worcester? Yes.

And after a lapse of time he returned to London? Yes. About April or June, 1830, he returned to London.

Did he then bring his family with him? Yes.

Where did he live first? In Upper Berkeley Street. He afterwards went to Baker Street to a larger and finer house.

Did he continue to live in London so long as you were acquainted with him? Yes.

Do you remember Mr Philippard obtaining some honour from him? Not to my knowledge.

Do you know, by some conversation with the prisoner, that Philippard was a baronet? No.

Have you heard of his making Banks a baronet? Not from himself.

Have you heard from himself that he had the power to make baronets? Yes.

Did he say he had exercised it? Not to me.

Do you remember any proposal made in your company of selling patents of baronetcy? Not in my presence.

Did you see Banks frequently with him? Yes.

In these money transactions, was Banks quite in his confidence? He appeared to be so.

But the prisoner transacted with you personally? He did.

Did you ever observe any symptoms of concealment from Banks? I was desired by the principal not to communicate to Banks all the particulars of the money transactions.

Do you happen ever to have heard the prisoner speak of Mademoiselle Le Normand in Paris? Yes.

What did he tell you regarding her? That she told his fortune.

What did he say as to her telling his fortune? She told him, he said, that he should succeed in his endeavours to obtain all his property in Scotland and in America ultimately.

When was this? About the end of 1829, or the beginning of 1830.

Having your acquaintance with him these eighteen months, do you believe you were consulted in all his money matters? At the commencement I was certainly.

Did he receive, to your knowledge, any money from Le Normand? He never told me so.

In speaking of his embarrassments, did he say he was indebted to her for any sum? No.

Do you know whether he corresponded with her? Not to my knowledge.

I suppose when in Baker Street he lived in good style? Yes; he kept his carriage.

What name did he go by in Baker Street? The Earl of Stirling.

Do you remember any transaction to purchase plate for his house? No.

Did he buy plate to a large amount? Not to my knowledge.

From the transactions that you carried through for him, what was your opinion of his abilities? I thought that he was a very clever man.

Did he shew many resources and much skill in raising money? I cannot speak of that. He left that to his agents.

Cross-examined by Mr Robertson.—Was the communication he made to you, about Le Normand telling his fortune, in jest or earnest? I thought it was in perfect earnest. I thought he believed the prediction.

Was it by skill in divination, or by cutting cards? I do not know. She told to him his fortune, as she had done to many others.

Who introduced you to Lord Stirling? Mr Morant.

Was it not Sir Henry Digby? No; I introduced Sir Henry to the prisoner.

Did Sir Henry lend him money? He certainly did.

The Court.—He is an admiral? Yes.

How did your acquaintance with the prisoner come to cease? I suppose he thought that others could do better for him.

Did you give up? No; it took place on part of the prisoner.

During this time, did he ever mention to you that he was possessed of a charter? Certainly; a charter of novodamus granted to his ancestor, of lands in Canada and the United States, and that was the foundation of the title which he was holding out to the public as a security for money.

Did he tell you how he got it? No; but in my communication with him I was led to believe that it had been recovered in Ireland.

Did he mention any other documents that he had recovered? Not in my hearing.

Mr Robertson.—Do you recollect whether Mr James Wilson of Lincoln's Inn was consulted by him? He was.

Mr Innes. — Did you understand from him that the charter he spoke of was an original or the copy of a charter? I certainly understood, at the beginning, that it was the original.

Were you undeceived as to that? I was, about the commencement of 1831.

In these transactions, when people were advancing money and you were introducing them, did you call for the charter? I was shewn a written statement by Banks, but he produced no title. I referred to Mr Banks.

Juryman.—In borrowing money, do you mean to say that it was to prosecute his claim on the lands of America or the property in Scotland? The American property was not settled at the time.

The Court.—When the application was made to him, was it represented that the claim to land in Maine was settled? Yes; but in regard to the estates in Scotland and the lands in Canada they remained still unsettled.

Juryman.—I wish to know whether, in these bond transactions, part was paid in money and part in pictures? A small part was advanced in money on the pictures; the most valuable part of the pictures is still lodged in security.

Do you negociate loans? Yes.

Is it not the custom in London for persons negociating loans on hazardous transactions, not being allowed a high interest, to take goods? O yes.

Were some of these pictures not given on that consideration? No.

The pannel's declarations before the Sheriff of Edinburgh (pages 86—93) were then read. So also were Nos. 26 and 27 of the Inventory of Productions. Spottiswood's History of the Church of Scotland, Crawfurd's Lives of the Officers of State, and other relative documents, were then put in evidence.

Here terminated the proof for the Crown.

CASE FOR THE PANNEL.

Mr Robertson.—My Lords, I think it right to state to the Court that the first witness I propose to call is a gentleman to prove the handwriting of Thomas Conyers. If you look at Lord Cockburn's note, which has been read to the Jury, you will find reference made to an affidavit of a Henry Hovenden; subjoined to that affidavit, in the civil process, you will see a certain writing (I shall not read it at present to the Jury)

bearing to be an attestation that the written affidavit is true;* and then he goes on to make the same attestation about the charter libelled on. That document is produced by the Crown as one of the documents to be used in evidence in this case. I am aware that it is not read as evidence, but produced and libelled on. Then there is produced by the Crown, as evidence, and read, Lord Cockburn's note; now, that note contains comments upon the paper to which this attestation of Conyer's is subjoined, in what is called Hovenden's affidavit. At the time these comments were made there was no evidence that the name of Thomas Conyers was a genuine subscription. It might have had an effect on his Lordship's mind, and it *will* have an effect on the mind of those who look at this document. I, therefore, am entitled to read (having proved the handwriting) that affidavit from Conyers. I do not say that it proves the truth of the affidavit; no affidavit proves itself, but I say it proves that a person now dead, a hundred years ago, set his hand and writing to a paper, existing a hundred years ago, which gives an account of the charter libelled.

The Court.—Are there two signatures of Conyers?

Mr Robertson.—Yes; what I propose to prove is Conyers' handwriting, and the attestation by Conyers.

The Solicitor-General objected.—The document was not produced in evidence, and no use had been made of it on the part of the Crown. The other party could only take it on its admissibility, if it were admissible. If it had been a genuine document there must have been means of proving it. He did not admit Hovenden's signature; and with regard to Conyers, who bore testimony to the truth of the statement in the affidavit, unless they proved the document they were not entitled to have what they demanded at all.

Mr Robertson.—There are two grounds on which I am entitled to read this. Let it be understood, I have not proposed to read the affidavit of Hovenden at this stage. What I propose to read is two attestations by Thomas Conyers, bearing date 1723, and referring to that charter. I submit that I am entitled to refer to every thing in that paper, in order to take off the effect of the note of the Lord Ordinary, which has been led in evidence by the crown. In the second place, I do not say that Hovenden's affidavit proves the fact that the charter existed in 1723; but I say, if these are true handwritings, they prove that the document existed then.

* Appendix to Introduction, p. xxv.

Be it that, in a civil case, it would have been no evidence to prove the existence of the charter, so as to set up a civil right on it; but when we come to a criminal question, whether forged documents are issued in guilty knowledge, is it not an ingredient, to a certain extent, in reference to my guilt, whether a paper existed a hundred years ago, referring to that charter, or not? I mean to say, in short, that there is evidence of the fact, that that attestation existed a hundred years ago.

The Court then retired for a few minutes to consider the admissibility, and came to this conclusion:—You are entitled to prove the handwriting of Conyers; but although you establish that in a competent form, the attestation to which it is appended cannot be held as affording any proof of any thing whatever.

Mr Robertson.—It cannot be read to the Jury?

The Court.—No, it cannot prove that the man wrote it with the belief of its being true.

Mr Robertson.—And that it does not prove any thing at all? It is evidence that he made the statement.

The Court.—But not that he made it in good faith.

Mr Robertson.—I assume that I can prove the handwriting.

The Court.—You cannot prove it in the ordinary way.

Mr Robertson. Yes, in the ordinary way in which the handwriting of persons dead can be proved. But if your Lordships are of opinion that the attestation can prove nothing at all, I do not care about proving the handwriting of Conyers.

The Court.—You may read it if you think proper.

Mr Robertson.—But, having read it, it proves nothing?

The Court.—No.

Mr Robertson.—Then I will not trouble the Court with proving it.

Mr Robertson.—Your Lordships will recollect, that in the examination of Mr Ephraim Lockhart, reference was made to two letters of Banks to Lockhart, of 10th and 17th April. The post marks were admitted, and the handwriting and receipt of the letters were proved by Mr Lockhart. I propose that these should be read.

Solicitor-General.—I object to this; Banks is alive; he was proved by this witness to have been seen lately in the Crown Office.

The Court.— He might have been in your list of witnesses. (The objection was sustained.)

Mr Robertson.—On the same principle, I tender the following letter from Banks to Lord Stirling, 23d and 26th April, 2d and 6th May, 1828; 29th January, 24th February, and 4th and 24th March, 1829.*

Solicitor-General.—My learned friend offers to submit what he knows is not legal evidence, to make an impression, it would appear, on the Jury. We stand on the rules of evidence, so that they may go forth to the world, and prevent constant embarrassments in Courts.

Mr Robertson.—While my learned friend chooses to complain of my conduct, I make none on the way the Crown has conducted this case. I did not come here to tender what I knew not to be competent evidence. In the present instance, I tendered what I knew by your preceding decision you would not receive; but I beg to say, that I was entitled to tender these letters, and I *have* tendered them. Your Lordships were entitled to reject them, and you *have* rejected them; and as the fact stands, there is no occasion to discuss farther about it. Your Lordships' decision in regard to Banks' letters to Mr Lockhart rules the present question.

The Court. — The Jury know a great deal too well their own duty to be misled by the apparent wish to tender documents in evidence which the Court hold to be improper.

Lord Moncreiff.—Banks is alive.

Mr Robertson.—Surely, my Lord. It was the Solicitor-General that began this discussion.

Mr Robertson.—In the record in the civil process, reference is made to an affidavit by an individual of the name of Elizabeth Pountney. In the process no such affidavit was produced. The way it stands was this: The civil process is a reduction both of a general and special service; the productions in the service are retained in the Court of Canongate, and there is no extract of those proceedings which contains the affidavit of Elizabeth Pountney. I want to establish, that no such affidavit was produced in the process. That is all. I suppose my learned friends will admit that.

Mr Innes.—There is no such affidavit in the process, because it remains in the Court of Canongate.

Mr Robertson.—Be pleased to take a note of that. I want

* See these letters in "Additional Defences, &c. for the Earl of Stirling," at the end of the volume.

it merely stated, that the original is not in the process, and I go no farther with it.

Solicitor-General.—This lady is on the list of witnesses. She is here now, and my learned friends may put her in the witness-box if they can.

Mr Robertson.—*If* we *can?* All I want is, the fact that it is not in the process. We will do what we wish, and what we *can*, of course. Call Josiah Corrie.

Josiah Corrie, Esq. Interrogated by Mr Robertson.

You are a solicitor, and master-extraordinary in Chancery? I am.

You carried on business in Birmingham for some time? I did.

Did you know the late Mr Humphrys, father of the prisoner? I did.

When did he die? I believe in 1807.

Had you been his agent for many years? For more than ten years.

Did you draw his rents, and transact business for him? I did.

Where did he live? At Fair Hill, now called the Larches, near Birmingham, when I first knew him.

You were intimately acquainted with him? I was.

Were you one of the trustees in his will? I was.

Were you acquainted with his handwriting? Perfectly well.

You have seen him write? Frequently.

Look at that rental-book? It is the book which I kept of his rents received during the period implied in the book.

His handwriting is in that book? Yes, he opened the accounts himself, and I continued them. There is a great deal of his handwriting in the book. That is his flourish.

(Letters shewn to witness.)

These are letters addressed to you? Yes.

Look at this parchment marked T, having written on it "Some of my wife's family papers." Whose handwriting is that? It is the handwriting of Mr Humphrys, Lord Stirling's father.

Have you any doubt of it? Not the slightest.

Were you aware from the late Mr Humphrys that some of the papers belonging to his family had been amissing? He told me at Fair Hill, where I knew him, from 1796 to 1798, that he had lost some valuable documents at the time he moved from Digbeth House to Fair Hill.

Did he tell you when he removed? I knew the fact of the removal.

How long have you known the prisoner? For more than forty years.

During all the time that you have been acquainted with him, what sort of character has he borne? I do not know any man who has borne a better.

Are you acquainted with his family? Very well.

Is a good man to his family? I have knowledge enough to say that he is.

Cross-examined by the Solicitor-General. — The deceased Mr Humphrys did not tell you the time of his removal from Digbeth House to Fair Hill? He did not say when, but the date was notorious.

What was the time? About 1794. He might tell me the date, but I cannot recollect it at the distance of forty years.

You have known the prisoner for forty years, since 1796 or 1797? I knew him when a boy.

When did he go to France? In 1802.

What age was he then? I cannot exactly say. In 1790 he might be 11, 12, or 13.

When did he go to France? During the short peace of 1802.

When did he return? The latter end of 1814, or beginning of 1815.

What has been the extent of your intercourse with him since? It has not been constant.

Where has he resided during the interval? At Worcester.

Where did you reside? At Fair Hill.

When did he go to reside at Worcester? Soon after his return.

Where did you see him after you lost sight of him in 1802? At Worcester.

Can you tell the year? 1815.

Did you see much of him there? Not a great deal.

How long did he stay at Worcester? He was there in 1829.

Had you paid visits to him in the interval? Not to him, but to his friends.

Where did he go afterwards? To London.

What did you know of him there? It was requisite to produce some documents before Sir William Rae, about 1829, and I went to London on this business.

Was he then living in good style? He was then residing

at Worcester. I saw little of him in London. He lived in lodgings, where I saw him.

Did you see Mr Tyrrell there? I may have seen him.

Do you know if he was engaged in raising money for him? I do not know.

Did you know any thing of the prisoner's means at that time? I did not know any thing of his means at that time.

What was his occupation? He was pursuing his claim. He had an establishment for education, a highly respectable establishment, at Worcester.

Did you ever know him in any other occupation? Do you know of his having been in trade? I have heard of his having speculated in wine, but I do not know this of my own knowledge.

How long did he stay at Worcester after 1829? I cannot say.

When did you first see him again? Perhaps two years after.

How often since? I cannot say.

How often have you seen him since 1796? Frequently.

Did you know him in Baker Street in London? I visited him once there.

In what style did he live? He seemed to live like a gentleman.

Had he a large establishment of servants? I do not know.

Was he called Lord Stirling? I think so, but I cannot positively say.

Was he called Lord Stirling when he had the school establishment? No, he was called Mr Humphrys.

Have you seen him since he left Edinburgh and went to Paris last? I cannot call to memory that I have. I never was in Edinburgh with him before. I am speaking to a period of more than forty years, and I cannot call to recollection every thing.

Do you know of his raising money on the security of his claim? I do not know.

Court. — Do you know whether he was in France in 1822, from the time you had seen him in Worcester till you saw him in 1829? I do not know.

When first did you hear of the claim? In 1815 or 1816.

Did he say any thing to you of Mademoiselle Le Normand? I do not recollect of having heard her name till very lately.

What did he tell you? or did he furnish you with any do-

cuments? He said he had no documents, and I declined to act for him.

Juryman.—When did you first see the excerpt? I believe I saw it first with Sir William Rae, when I went to London with Mr Lockhart in 1829.

No question as to its genuineness was made by Sir William Rae? No.

The Court.—When he said he had no documents, and that was the cause of your declining his employment, when that document was put into your possession did he inform you where he got it? I was merely an automaton.

You have no recollection how the prisoner alleged he had got possession of that document? I think he told us after dinner. I think he said it came from the custody of Mr Conyers; but whether immediately from himself, or somebody else, I cannot say. Mr Banks was then acting for him.

Was it the prisoner that told you that, or any one in his presence, after dinner? I cannot tell.

Did he speak about the documents? Generally.

Did you not ask where he had got them? No.

Had you no curiosity? I had no curiosity about it. I cannot swear that he told me where it came from. To the best of my recollection I did not inquire.

You have some recollection of the name of Conyers being mentioned? I cannot swear distinctly to it.

What made you mention his name then? I heard something of his name. I had not time to go about the matter, and it was intrusted to Mr Lockhart.

Mr Robertson.—And you have no skill in Scotch charters and novodamuses, I suppose? No.

The Court.—Mr Lockhart was at Worcester along with you? Yes.

What reason was there for you being employed? Lord Stirling thought it necessary to have an English solicitor as well as a Scotch one.

Mr Archibald Bell. Interrogated by Mr Robertson.—You are a lithographer? Yes.

Was that book and these letters put into your hands? (The rental book of Mr Humphrys, and letters shewn to last witness.) Yes.

Did you examine the writing in the rental book, and the letters with the writings on the parchment, "Some of my Wife's family papers?" Yes.

Did the handwriting on the parchment appear to be the same with that in the rental book? It appeared to me to be the same.

You made a minute inspection, so as to satisfy yourself? Yes; and I am quite satisfied, so far as I am able to judge, of the similarity between the two; and I am of opinion that they were both done by the same hand.

Cross-examined by Mr Innes.—You observe an ornament in the flourish on the parchment? Do you see such a flourish in the rental book? Yes.

Is there any difference in the way in which the flourish is made in the one and in the other? Yes; the flourish on the parchment does not appear to be so natural as that in the rental book.

It does not appear to have been hit off so distinctly as in the other? It does not flow so glibly on the parchment.

Do you think it safe to give an opinion on four or five words? I state my conviction.

Is that a common school-boy hand that any school-boy would write? Not altogether.

The Court.—Can you say it is the true hand, and not a false hand? No mortal man could say unless he saw it executed. I cannot say, nor can any other man say, that it is the true hand. Had I received from the gentleman who wrote that memorandum book a note, in this hand, I would have believed it to be genuine.

Monsieur Charles Herald de Pages. (Monsieur Duriez sworn as interpreter.) Interrogated by Mr Robertson.—What is your employment? I am attached to the historical branch of the King's Library at Paris.

Are you acquainted with, or are you any relation of the Marquis Belfont? I am nephew to the Marquis Belfont.

Has he a collection of autographs? Not, perhaps, a collection, but he has autographs. They are all family papers.

When did you first hear of the Earl of Stirling? About ten days before my last departure from Paris, on the 20th of April.

Was any application made to you? Monsieur Bechard requested me to make some searches. Monsieur Bechard is an Avocat, and a member of the Chamber of Deputies.

What did you do in consequence of this? I visited several of the libraries, and consulted several of the persons who directed them.

Did you bring with you any MSS.? Yes; sixteen different MSS.

(Shewn a document.) What is that? It is a piece of writing given to me by Monsieur Villenave, as a writing in the hand of Louis XV.

The Court.—This is evidence as to a piece of paper given to the witness by a person not here, (Villenave,) as the handwriting of Louis XV.

Mr Robertson.—Allow me to go on, my Lord, there is nothing irregular yet. What is Villenave? A member of the Institute.

Is he an old gentleman? About seventy-five.

Is he unable to come to Scotland? Yes; he said if he had been twenty years younger he would have come. He is quite unable to come.

Have you any acquaintance from your duties and practice with the handwriting of old MSS.? Of the very ancient writings I have little knowledge; but I have a greater knowledge of those which are more modern.

What do you mean by ancient MSS.? Those anterior to the fifteenth century.

From your own knowledge of MSS. of a more modern date, in whose handwriting do you believe these lines on this document to be? It resembles the handwriting of Louis XV. But I have not observed it very carefully, because I was only informed as to this matter six days before my departure; and it was only twenty-four hours before my departure that the time was fixed when I should leave Paris.

Where did you see other handwriting of Louis XV.? I have brought a lithographed fac-simile of his writing.

Have you seen other specimens of his writing? Yes.

Where? In the Royal Library in great quantities.

The Court.—You say that you have seen a great deal of the writing of Louis XV.? Yes.

(Being shewn several letters, bearing to be from Flechier, Bishop of Nismes.) Where did you get these? The Marquis de Belfont sent them to me on my demand.

You had applied to your uncle for them? Yes. The state in which I found them proved that they had never been touched since they were written.

How do you know that they were in his handwriting? Because he was Bishop of Nismes at the date which these letters bear.

Have you seen other specimens of his handwriting? I believe I have, but I do not remember.

How do you know that Flechier was Bishop of Nismes? By all the histories of Nismes; and I have seen other letters of his in the same department of the Gard.

Do you know when Flechier ceased to be Bishop of Nismes? In 1710.

Do you believe these documents to be in the handwriting of Flechier? I am convinced that they are.

(Being shewn the map libelled on, the witness thought that the writing thereon attributed to Flechier was conformable to the specimens which he had brought with him.)

Look at the note, bearing to be by Louis XV.? I think it is equally like the notes by Louis XV. which I have brought here.

Cross-examined by Mr Innes.—Have you been keeper of any collection of MSS.? I have not been charged to keep MSS. but to examine them. Not these papers, but MSS. generally.

What is your occupation? My duty is to examine MSS. and to give an account of them.

How long have you been in that employment? Two years.

Have you gone through the school of Charters in Paris? No.

Have you seen many of the writings of Flechier, Bishop of Nismes? About a hundred letters in the parcel from which these were taken, and several in the same department.

Lord Meadowbank.—Did you ever read Voltaire's History of Louis XV.? Yes.

What does Voltaire say of Louis' writing? I cannot say very well. I think he says that he did not spell properly.

Do you know that Voltaire says he never wrote but two words in his life,—"bon" and "Louis?" It is possible; but I do not recollect.

Do you recollect of Voltaire saying, that when he communicated with his mistresses he employed a secretary to write his billets? I do not know. My recollection of the work is vague. I have not the work by heart.

Lord Moncreiff.—If you were assured that the map shewn you did not exist till 1718, would you still say that the writing was Flechier's? Wherever it might be placed I would say that it resembled the other specimens of the handwriting of Flechier which I have under my eyes.

Let me remind you that Flechier died in 1710, and this paper had not existence till 1715. It would not be the least like.

CHARLES HARDINGE, Esq.—Lord Meadowbank.—I should like to state, before you proceed with this witness, that what Voltaire said of Louis XV. having never written but two words in his life may be a falsehood. We have no reason to believe that Voltaire is accurate in his allegation, as he is an author in whom little reliance can be placed.

Mr Robertson. — I am glad that your Lordship has anticipated me in this, as it saves me the necessity of animadverting upon it in my address to the Jury.

Mr Hardinge. Interrogated by Mr Robertson. — You reside at Bole Hall near Tamworth? Yes.

And you are a relation of Sir Robert Peel? His first cousin.

How long have you known Lord Stirling? About forty-two years. I was at school with him.

Did you know his parents? I did.

What sort of style did they live in? In an extremely good style. Nobody in Birmingham lived better: they kept their carriage and a pair of fine grey horses.

When did Lord Stirling go to France? I do not know.

When did you last visit him? He called at my house and remained a day or two with me, twelve or thirteen years ago, —three or four years before the death of the late Sir Robert Peel.

Have you seen him since that? Yes; I was a day or two with him in his house in London. He called at my house with Lady Stirling, and spent four days with me, when he went to vote at the election of Peers in Scotland. I constantly correspond with him; and I know him well, so far as one man can judge of another.

What is your opinion of his character? He is a man of excellent moral principle and honour. As a father, as a husband, and as a friend, his character is one of the very best. At school he was loved by every one. When I knew him again I had occasion to know a good deal of him, from the time of his first calling upon me. In his letters there is not an observation that would not do honour to any one, so far as the heart is concerned. There is no man in existence more honourable than he is.

Roger Aytoun, Esq. W. S. Interrogated by Mr Robertson.—How long have you been acquainted with Lord Stirling? I should say from the year 1826.

Have you been familiarly acquainted with him? Of late years I have; but not at first. I got acquainted with him when he first came down to prosecute his claim. At that time I was engaged in an investigation on the part of Lord Rollo, and through Lord Rollo I was introduced to the pannel.

And you have been intimate with him since? I have been intimate with him since 1830 or 1831.

What is your opinion of his character as a man of honour? I have a very high opinion of him as a man of honour. I looked upon him as a complete gentleman. He has the very mien and manners of a gentleman.

You have had intercourse with his family? Yes.

He has visited in your house and you in his? He has visited in my house very frequently; but I never went to any party in his house. He was not much in the habit of giving parties; and I not much in the habit of going out.

And you have the highest opinion of his talents? I have.

Colonel George Charles D' Aguilar. — You are Deputy Adjutant General of her Majesty's Forces in Ireland? I am at the head of the Adjutant General's Staff in Ireland.

How long have you been in the service? My first commission was dated in 1799, about forty years ago.

When did you first become acquainted with the prisoner? In 1797 or 1798. I was at school with him near Birmingham; at the Rev. Mr Corrie's, brother of Mr Josiah Corrie.

Did you visit at his father's family? Yes; often. I may state the circumstance. I was at that time at a considerable distance from my friends. Lord Stirling's family resided in the immediate neighbourhood. We were class-fellows. His place was generally immediately above me. He also shewed kindness to me; and it brought us more or less together. When he went home at the short vacations, he invariably took me with him; so that I had the opportunity of living in habits of great intimacy with him; not only with himself, but with his family.

What opinion did you form of the character of Lord Stirling's family? Their character was in the highest

degree respectable. I may be a little prejudiced, for I received such affectionate kindness and hospitality from the family, that I can never forget it. Their affection for me was unbounded, and I am here to repay the debt of gratitude which I owed to them.

After you grew up in life, did your intimacy with Lord Stirling continue? I was separated from him by circumstances. I was out of England for many years, and in many parts of the world, during the late war.

When did you renew your acquaintance with him? A long interval elapsed: I renewed my acquaintance with him in 1830, after a long course of service,—in the end of 1829, or beginning of 1830. I had not seen him till then since 1799.

After you renewed your intimacy with him, did you continue more or less to be in communication with him and his family? Constantly; I mean by that, that I corresponded with him and his family. When I was in London, I saw a great deal of him, and was frequently at his house, and he in mine. His children corresponded with my children. There was no event of his life, more particularly that connected with the claim and title, that he did not confide to me. He wrote to me on the subject with perfect openness. I took an interest in all his proceedings, and he wrote to me about them as they occurred.

From your long and constant intercourse with him, and from your intimate acquaintance with him, what is your opinion of his character as a man of honour, as a good parent, and a good husband? I think my presence here is the best answer to that question. Nothing on earth could have induced me to take the part I have taken, to stand before the Court where I do,* if I did not think Lord Stirling to be incapable of a dishonourable action. I beg to say that if the correspondence of this individual is any index to his mind and character, that I have in my possession the most ample proofs to enable me to form my opinion of him. I corresponded with him repeatedly. His early letters to me I have not kept, but latterly, and more particularly since he has had the misfortune to be placed in his present situation, I have heard from him regularly.

Mr Robertson.—That is the case for the prisoner.

The Solicitor-General requested the Court would adjourn

* Col. D'Aguilar declined going into the witness' box, and begged to be examined in the dock beside the prisoner.

till the morrow, as, in consequence of the absence of the Lord Advocate, the prosecution had devolved upon him, and he had not had an opportunity of revising the evidence.

The Court adjourned accordingly till to-morrow at nine o'clock.

FOURTH DAY.

Thursday, May 2, 1839.

THE COURT MET AT NINE O'CLOCK.

Solicitor-General. — May it please your Lordships, Gentlemen of the Jury,—

In rising to address you, I am sure I need not bespeak your utmost indulgence and attention in going over the details of this most important and extraordinary case. The circumstance under which the charge of it has unexpectedly been cast on my shoulders, rendered it necessary for me to bespeak the indulgence of the Court last evening, that I might have an opportunity of examining some of the papers which had not come under my observation, and this alone, I presume, will entitle me to your indulgence. But it is to the importance of the case itself, the nature of the claim which the prisoner has set up, and therefore its importance to the public; the use which he has made of these pretensions in obtaining loans from individuals, its importance to those who have been giving these loans, and its general importance in itself, are quite sufficient to demand your attention, and I think it would be superfluous to add a word more in asking it.

The charge against the prisoner, set forth in the libel, is, that he has been guilty of forgery, as also of "wickedly and feloniously fabricating false and simulate writings to be used as evidence in Courts of Law, and so using the same as genuine; as also, the wickedly and feloniously using and uttering as genuine, fabricated, false, and simulate writings, knowing them to be fabricated, false, and simulate, by producing the same as evidence in the Courts of Law." These are libelled alternatively; you may take one or other, or all of them. They are very grievous charges to make against

one; they are the charges from which the prisoner has now to free himself. The proceedings against the prisoner have not been rashly instituted; they have not come upon him by surprise; they have not been taken because of the uttering of documents on a single occasion, but the charges against him carry back through a series of years, persisted in through many repeated processes, and all of them of considerable duration; charges persisted in in the face of every warning that could have been given to man; and it is not until after all this; until after the prisoner has been asserting his claim; until after he has been actually attempting to vote at the Peers' elections; till he has been assuming the title, and taking on himself to create baronets—because in the action of proving the tenor, it appears that Mr Banks was created a baronet by him, being called Sir Christopher Banks, baronet,—and it is not till after decree has been pronounced against him, and after the fabrication of those documents which have been so long under your consideration, that he has been called to the bar in this Court to answer for those crimes. He addressed his Canadian subjects, as he would term them, with the address that we have not been allowed to put in evidence; but it is sufficiently admitted in his declaration, which proves that he, in the capacity of sovereign of that country, issued his address to the inhabitants of Nova Scotia and Canada, which he caused to be widely circulated throughout the country. Nay, more, it is admitted, that he had opened an office in Parliament Street, London, for the sale of grants of land in Canada; and that is not all, for, as has been proved to you in evidence, he brought an action of reduction and improbation of the titles of the estate of Gartmore, against the present possessor of that estate, to dispossess him of an estate which he and his ancestors have enjoyed for a century and a half. He has been proved to have got loans from ignorant people, who trusted to his representations, obtaining no security whatever; and as you have seen, although from day to day, and year to year, the defects in the title were shewn to him, he has been persisting since 1829 in processes in these Courts of proving the tenor of reduction, and other judicial proceedings of the greatest importance. Then he has got himself served heir in general and special to the first Earl of Stirling, and the Court will tell you, that if these services had stood for twenty years they would have been prescribed in his favour. It is not until after all this has been done, in the face of deliberate forewarning, in circumstances which ought to have induced him to look into

the matter in the same solemn light that you are now to look at it; after he has persisted in maintaining the genuineness of these writings, that the charges which he is now to answer for were brought against him.

Then, who is the prisoner at the bar? You have seen some of those who were acquainted with him in his youth. You have heard his parentage spoken to. His name was Humphrys —his mother's name was Alexander. He went by no other name than Humphrys till some time between the years 1815 and 1829. It is not for me to disparage his parentage or to say any thing against his respectability or those gentlemanly qualities which, by the kind affection of his schoolfellows, he is said to possess. He is entitled to all that they have said of him; but this you will bear in mind, that whatever was the respectability or wealth of his family, he is proved to have been so much reduced in his circumstances as to have been obliged to take up a school in Worcester. There also he was unsuccessful, and we find that, before the year 1829, he was in circumstances of the greatest embarrassment. He went to London, where he was not able to pay his expenditure; and, therefore, we begin with him a straitened man, having no means to live upon, having deserted his school, and having no other means of making a living; and there he resorted to those pretensions of his which he is here to support before you now, in order to raise the wind and obtain that living which before that date he had been endeavouring to obtain by the ordinary means of existence. He had no title. Has it been proved that either his father or himself down to the year 1815, ever breathed a word or whispered a suspicion that they were entitled to set forth the claims which are now before you? When his father was rolling about in his carriage, living on the estate of the Larches, there was no insinuation that he was entitled to make such a claim, or that he meant to enforce it; and if it had been then thought that they were entitled to make such a claim, is it not more likely that it would have been done when they had the means of enforcing it, than afterwards when the means were wanting? The pannel's own witness, Corrie, proved that, in 1815, when he applied to him as an English solicitor to conduct these matters, that he came to him without the shadow of a title, and that gentleman, as a professional man, refused in consequence to have any thing to do with the matter; and it is not till after some time, in the course of which he is transmogrified into the Earl of Stirling, that this claim does arise; and when it does

arise, does he take the usual way to establish it? has he gone to the House of Peers to assert his right? He has shewn as yet no title. He comes before you on this excerpt. He is here without a patent of peerage — without any charter of right. He is here, and has assumed, for fourteen or fifteen years, not only the name, but all the rights and privileges of the Earl of Stirling, asserting that they belong to him, and that he had the best proofs to substantiate his claim.

It is important that you should follow me a little farther in regard to this title. This gentleman claims to be Earl of Stirling. He cannot be Earl of Stirling unless there had been a patent which could, by possibility, have descended to him. Now, what have we? We have two patents of nobility in favour of the family of Stirling; one of them of date 14th September, 1630—another of 14th June, 1633. The patent of the first date creates "Sir William Alexander Viscount of Stirling, Lord Alexander of Tullibodie, giving and granting to him, and his heirs-male bearing the surname and arms of Alexander, the title, honour, and dignity of Viscount of our said kingdom of Scotland." The other patent of 1633, constitutes and "creates the foresaid William Viscount Stirling Earl of Stirling, Viscount of Canada, Lord Alexander of Tullibodie, giving and granting, as by the tenor of these presents we give and grant, to him, and his heirs-male for ever bearing the surname and arms of Alexander, the title, honour, rank, and degree of dignity of an Earl."

There is no patent of nobility on the record—no patent spoken of to any baron whatever—no trace of any such patent to be found any where except in the hands of this prisoner at the bar, other than these two; and the only manner in which he can support his title is to make out that he is an heir-male of the original Earl of Stirling. But, gentlemen, he comes before you confessing, that, if he be any thing, he is an heir-female. The excerpt on which he founds, pretends that there has been a change on the original patents, to the effect that this charter of novodamus, as he calls it, bears to be to the first Earl of Stirling, and heirs-male of his body; whom failing, the heirs-female, &c. and it is under that branch that he pretends to claim. Accordingly, there is produced a tree, by which he pretends to make good his claim; and it is an observation not without importance, that even, as heir-female, he is not an heir of the Earl of Stirling. It is as an heir-female of the last heir-male of the Earl of Stirling that he comes forth with his claim. This tree sets forth the death of

the first Earl of Stirling in 1640, leaving, among others, a fourth son, John of Antrim, said to be the ancestor of the prisoner according to this story. It is as the great-grandson of John Alexander, whom he calls of Antrim, that this party claims. This John had a son whom he calls the Rev. John Alexander of Dublin, and he of Dublin had another son whom he calls Alexander of Birmingham.

Not only is he not the heir-male, but he is not the heir-female of the first earl. If he can make out a case, it is as being the heir-female of a remote branch; and he has nothing at all to rest on except it be that charter of 1639.

This excerpt of 1639 does not make its appearance till 1829. Where is it found? It is found in his hands. Mr Lockhart proved that he got it from him at Worcester. Mr Corrie went with him to London to shew it to Sir William Rae, and we are told that he approved of it. He is no evidence whatever that it was approved of by Sir William Rae. It is better evidence of Sir William Rae's opinion, that when he himself was Lord Advocate, and when the first action of proving the tenor, he thought it his duty, from his disbelief of the title, to have the matter fully investigated. Sir William Rae himself was sisted defender in that case. The opposition then arose, and has ever since been maintained, by all the successors of that eminent person holding the office.

Now, the first action of proving the tenor is proved to have been brought in 1829, and dismissed by decree of the Court on the 4th March, 1830. It was dismissed for want of title. No service was then raised,—no proper interest was then constituted, — and therefore it was thrown out of Court. There had been, however, a discussion, by which this party had pretty significantly been given to understand, that it was not a light affair in which he was then engaged. But no sooner is the first action dismissed, than, on the 1st September, 1830, he raises another action of reduction-improbation and declarator, in the Court of Session, against William Cuningham Graham of Gartmore, and claims the estate of Gartmore, as belonging to him on the charter. The day after that, 2d September, 1830, he brought another action of proving the tenor of the alleged charter of novodamus, against Graham of Gartmore and the Officers of State, and there again he founds on this excerpt. He then obtains himself served heir in general, and heir in special, to the first Earl of Stirling, on the 11th October, 1830. The reduction still in dependence by the Officers of State is brought against him and Thomas Christopher Banks, claiming

to be Sir Thomas Christopher Banks, and in the course of these processes, proceedings take place, at every stage of which there is delay, and addition after addition made to the proof; and it is not until after every opportunity has been afforded him, that the proceedings took place which have given rise to the present situation of the prisoner.

Now, after all these attempts had been made, the interlocutor of Lord Cockburn, which was read to you, was pronounced, —it was pronounced on the 10th December, 1836. In regard to such a judgment, it is established, that all that this party had done was of no avail, and that he was not what he pretended to be. But it was pointed out to him in a most anxious note where were the defects in the title. The whole of the defender's case depends on the genuineness of the two descents mentioned by the Lord Ordinary; then a great portion of the documents sought to be reduced are recovered subsequent to the date of that interlocutor, to the date of that announcement of the opinion of the Court where the defects lay; and they were produced afterwards by this party in the Court, with a view of supplying these defects.

Having briefly run over the history of the case so far, be pleased now to turn to your indictment; and there, in the first place, you will find that the prisoner is libelled as having forged a document or writing in terms set forth in Appendix, No. I. Now,-in regard to this, the first point for you to consider is, Is this excerpt of 1639 a genuine or a forged document? In considering that matter, it is not requisite, in the first place, that you should at all trouble yourselves as to who is the party, who is the forger, if forgery it be; the first point on which you must satisfy yourself is, whether this be an undoubted forgery or not. It may be that this party is not the forger of the document, or even the utterer of it; or he may have uttered it in good faith, being himself deceived. These are all matters for ulterior consideration; the first matter by you to be considered is, whether in point of fact, without reference to who is the forger, or to any thing that has taken place in regard to the document, that document is itself genuine or forged?

Now, gentlemen, if ever there was evidence produced in a court of law to prove any thing, surely it has been proved that this is not a genuine but a forged document. It bears to be the excerpt of a charter. Now it is not a charter — there never has been any such charter — there could not have been any such charter. There are a variety of points all

concurring, absolutely unanswerable, to prove that this could not have been what the prisoner holds it out to be. Turn first to the close of the document, where you will find *gratis, per signetum*, free, by the signet. Look a little above and see the testing clause, — "In testimony whereof, to this our present charter, we have commanded our Great Seal to be appended. Witnesses the most reverend father in Christ, and our well beloved Councillor John, by the mercy of God, Archbishop of St Andrews, primate and metropolitan of our kingdom of Scotland, our Chancellor." It has been explained to you that this testing clause is the form in which all charters are drawn up, after having been completed. It is not in the signature, nor the precept from the signet on which the privy seal acts, nor the precept of the privy seal on which the great seal acts, — in not one of these previous stages of the proceedings is there this testing clause. This excerpt, therefore, cannot have been taken from the signature, — not from a signet precept — not from a privy seal precept — not taken from any document that can exist in *rerum natura*. Bearing this testing clause, it must have been taken from a completed charter alone. Then look at the *per signetum*. This again could not have been at a completed charter. The process was explained to you step by step by all the witnesses. The Keeper of the Signet, and the Deputy Clerk Register explained to you the whole process, which was perfectly notorious. The first signature is presented to the Exchequer; then it is rolled up in a bundle in the signet office, and that is the warrant of a precept given forth, directed to the privy seal; then there is a precept in the privy seal, and a record; then there is a second precept; then there is a third stage in the proceedings, which is a precept from the privy seal to the great seal; then there is the charter itself which passes from the great seal; and it is in the privy seal alone that these words could have been put to it *per signetum*, that is, by warrant of the Signet. So here is a document, bearing, on the one hand, to be a completed charter, which it could not be, having *per signetum* at its close; neither can it be a privy seal precept, because it has the testing clause of the completed charter. On the other hand, it has been sworn to you that it cannot, by possibility from its evidence, be taken as an authentic document known to the law of Scotland. What is the evidence? This document bears the date of 1639. It may be said that these witnesses were speaking to a change of form in passing these writs. There has been a change lately, but the records themselves prove that, pre-

vious to that date, there was no such change as would give the document the appearance which it has. We have contemporaneous charters. You have here before you the charter in favour of the city of Edinburgh, the charter in favour of Heriot's Hospital, only four days later in date than the date which this document bears, and there you find established what is sworn to you in the course of proceeding from the first step to the completed charter; and there you will find all the formalities to be precisely what the witnesses have stated to you. But we have done more than this,—in reference to these charters, we have gone through the different records, and we have produced the whole of the warrants on which these proceed; while, in this document libelled on, we have nothing but an alleged excerpt of a charter, with no evidence on the records regarding it. There are various records under the charge of different officers, and these have all been searched to no purpose. Therefore, you have to deal with this additional improbability—there is nothing whatever to support it either in the signet office, or in the privy seal, or in the great seal record. You have these charters, two in favour of the city of Edinburgh and Heriot's Hospital in 1639, when the prisoner says that the records of that year, the time of Cromwell, perished in a storm at sea. In regard to these charters, there are to be found the bundles of signatures, the signet precepts, the privy seal precepts, and the registers. Accordingly, in regard to this one in favour of the city of Edinburgh, there is produced the original signature which ordains a charter "to be made under his hienes great seal in dew forme, giving, granting," &c. &c. Then there is the register of signatures, and in that register, which is the comptroller's register in the Exchequer, there is recorded that very signature, with the date of the register on the margin. Then there is the register of the privy seal, and there is the precept recorded in Latin; then there is the *Per Signetum* which it bears at the bottom, in place of subscription, as the warrant of that precept to be handed in to the great seal. The *Per Signetum* is alone to be found in the completed charter. In the first stage of the charter we have not the *Per Signetum*, but "*in cujus rei testimonium*," or a command to affix the great seal to this present charter. And last of all is the fifth stage. Here is the original charter itself, which bears the full testing clause in the same way. The same thing holds good in regard to the charter in favour of Heriot's Hospital. Mr Robertson admits, that the statements here made are correct.

Without going farther, is there not here proof that this is not a genuine document, — that it cannot have been copied from any document that ever existed, — that it is, in short, an incongruity, — something made by one who had a glimmering of what was the course to pursue, but who had made a monster of the creation he intended to produce, — a monster which could not have existed; and is there not here clear and decided proof, that whoever made that document made a forgery, because it is impossible that it could be a genuine document.

Whilst that of itself would be sufficient to prove the document a forgery, it is farther most important that you keep in mind that this excerpt is not to be found in any register whatever. Searches have been made in the great seal record, and in the privy seal record, and in the comptroller's register, and in the rolls of signatures at the signet office, and in the register of sasines; and no where, not in one of all those registers, has there been preserved the smallest trace of any such document. If there was an imperfection or blank in a register, it may be said that it might have been amissing; but when you have four or five independent registers, some of them complete, giving full and direct testimony to every other document; and when you find that in not one of these is there any notice to be found of this alleged charter, it is incredible that such a thing could happen. It is impossible, I would say. It is out of the question; it is too much to ask human nature to believe, looking to all these records and the indexes, that such a document ever existed.

Then there is the extraordinary circumstance, that at the commencement of this excerpt there is marked on the margin "*Reg. Mag. Sig. lib.* 57," meaning Register of the Great Seal, book 57. And when you come to look at the document in the French map, you will find also, that there is there the pretence of official marking as of a register. What has misled the party forging to adopt this period for his forgery, and the marking of the 57th volume, is, that he had thought he had found evidence that the record for that period had perished or disappeared in consequence of a storm at sea. But the 57th vol. has been produced; it has not gone down at sea; it is here, and here we have not the want of a volume, we have the want merely of twelve leaves, and that defect cannot be accounted for by any storm at sea. It would not have been the leaves alone, but the volume, that would have perished, had there been any such loss. The volume is here, and the indexes are here, and twelve leaves only at the beginning

of it are wanting. The forger thought that, by so marking the margin, it would add very much to the authenticity of the document. Now, this marking is fixed by Mr Thomson, the author of it, and Mr M'Donald, his assistant, not to have commenced until after 1806, when the registers were rebound, in order that they should have one uniform title, and to get rid of the various modes of naming the different volumes. Mr Richard MacKenzie, a man of the greatest experience in business, who has had charters innumerable passing through his hands, has told you, that in the law books and every thing that speaks of charters before 1806, no such marking was ever heard tell of, and no such reference was ever made on the margin of a charter. He told you more, that in a book which he had seen, and which had gone through two editions, he found a reference made to this kind of marking in the second, but not in the first, and that he had gone to inquire at Mr Thomson what the marking could mean, never having seen it before. It is needless to dwell upon this, the proof is conclusive; you heard the evidence of the gentleman who introduced this marking, when the books were rebound, and the whole matter is spoken to distinctly. But then we have the parties who searched the different registers in the different places; we have all those different stages of proceedings gone through, and we have the offices gone through in the proper manner, and searches regularly made, and nothing of this kind is found to have been in existence. You have M'Donald's evidence, in which he accounts for the missing contents of the twelve leaves of the 57th volume. He told us that in the twelve leaves there were thirty-two charters and diplomas together, and that he found out this by the two indexes. That they consisted of one treaty between England and Scotland, ten patents of honour, one letter of rehabilitation in favour of a person of the name of Irvine, and that he has traced nineteen of these charters in the privy seal; and that only one of all those twenty is not so traced. When you find it not in any register, and the blank is accounted for, when you have a false account of the loss of that volume at sea, what are you to think? I have shewn you that it never could have been an authentic writ; but even if there were no objections to it,—if it appeared to be a genuine document, I have proved to you that it never existed; because it is not to be found in any one of the four separate registers through which it must have passed had it been genuine. I have proved that it could not have been in the 57th volume, which

is said to have perished at sea; because, from the indexes and other materials, I have supplied the contents of the missing leaves. This is a second branch of the evidence, fatal in itself, and fatal, you must see, when combined with the others.

Then, in regard to the witnessing of Archbishop Spottiswood, the date given is the 17th December, 1639,—"Witness the most reverend father in Christ, &c. &c. our chancellor." It is in the capacity of chancellor that he is one of the witnesses to this document; and no doubt, when Archbishop Spottiswood held that character, he is to be found in all the records, and in all the charters of the right date, and which were in the regular form. But it has been proved to you, that so early as 1638, it had pleased his Majesty "for diverse good considerations, to commit the charge and keeping of his great seal to his dearest cousin and counsellor, the Marquis of Hamilton, his Majesty's commissioner, till his Majesty shall be graciously pleased to declare his further will and pleasure thereanent." So that he is not chancellor at this date, nor after it. So you will observe, that the great seal is put in commission, and the Marquis of Hamilton is made commissioner on the 13th November, 1638, and this he could only have been by Archbishop Spottiswood ceasing to be chancellor upwards of a year before the date of this charter, in which he is made chancellor in the testing clause. Then there is an extract of the commissioner's declaration anent the great seal on the following day, the 14th Nov. 1638. "The whilk day James Marques of Hamilton his Majesties Commissioner Declared to the Lords of Privie Counsell that according to ane warrant and direction sent unto him under his Majesteis royall hand That he had receaved the resignation and dimission made be John Archbishop of St Andrews late lord high Chanceller of this kingdome and otheris in his name of the office of Lord Chanceller And that the said archbishop had delivered unto him his Majesties great seale and cashett to be keeped by him during his Majesteis royall will and pleasure and whill his Majestie sall be pleased to give further signification of his Majesteis pleasure And that in the meane time till his Majesteis pleasure be returned That his Majestie allowed and willed the said Lord Commissioner to append his Majesteis great seale to all infeftmentis patents and other letters and writs whereunto the said great seale is requisite and necessar wherethrow his Majesteis subjects susteane no harme nor skaith be the want of the said seale and cashett." Then we have an interregnum as to the chancellor-

ship; and in 1641, we have the choice of Lord Loudon as chancellor. This we have from the Act of Parliament preserved in the Register House, September, 1641. And then on the 2d October, two days afterwards, we have another act anent the delivery of the great seal to the charter, and an exoneration to the Marquis of Hamilton thereanent. He is thus exonered and relieved of the great seal two years after the date of this deed. So here are three years, during which time the great seal was in commission, and during which time Archbishop Spottiswood had nothing to do with it, and did not fill the office of chancellor at all. Is not this in itself then a most satisfactory and clear article of proof that this is a false and fabricated document? But look to the testing clause of those deeds of 1639, in favour of the city of Edinburgh and Heriot's Hospital, which are produced in evidence, just four days after the date of this fabricated document which bears to be witnessed by Archbishop Spottiswood. You have James Marquis of Hamilton, &c. as the witness in these charters four days after the date of the pretended one; and there is not one word mentioned about Archbishop Spottiswood. This is a matter thoroughly conclusive. If the document had been regular in its shape—if it had been found in the registers,—this fact of itself would have been fatal to it as a genuine document. In short, the incongruities are endless. There is a grant of lands in New England, which the Scotch crown could not grant; and this is one of those blunders into which parties fall who meddle with matters they know nothing about. This is a circumstance that could not have existed in a Scotch charter. It could not have passed the seals with such a clause. Such a thing would not have been allowed to exist. It would have been a usurpation; and this of itself goes to prove that it is a false document. Then observe it is addressed to a commoner; and it is quite out of the common course that a commoner should be called "Our trusty and well-beloved cousin," as the grandson of Lord Stirling is so designed; and besides all these, there is the quæquidem, which could not have passed; and there is the want of the reddendo. No doubt, it is said that an excerpt might exist without the reddendo; but this is an excerpt founded on as containing all the elements of a completed charter, and without it the charter could not be expede. It would have been impossible to say what was to be paid. This may not be so strong a feature in the case; but putting the whole incongruities together, it is absolutely impossible to avoid the force of the conclusion, that it is a forged document.

On the other hand, what have you in its favour? Where does it come from? Have you any explanation of its existence? We have the whisperings of a witness that it had come from Ireland, and we heard something of Conyers who had signed an affidavit certified by another party; but there is no name—nothing proved to you as regards it. How it came into possession of the pannel we know not. All that we know, is, that it is got out of his hands by Mr Lockhart when he went to Worcester. Let the forger be who he may, it is a forgery to all intents and purposes. It may be open to the prisoner to say that he has been deceived; but whatever he may say, it is a forgery, and you are bound, so far as we have yet gone, to find a *corpus delicti;* to find here that there has been a forgery. Then not only is it a forgery, but it is a modern forgery,—it is a forgery since the date of 1806—since the rebinding of the charters in the Register House under Mr Thomson, when that titling on the back was introduced; and this is not an unimportant fact, because it brings the forgery down to a date posterior to the return of the prisoner from France. It is not a document which the family could have known previously to his going abroad in 1802, and therefore I bring it down to a period subsequent to 1806. I bring it down to 1814 when the prisoner came back from France. Passing over, in the meantime, the documents that were transmitted through the penny-post in 1837, be so good now as turn your attention to the second charge which has reference to the French documents. Here again—I am not going to inquire at present who may have been the forger of these documents. I am to inquire if the documents on the back of the map of Canada are forgeries in themselves. I am not at present to direct your attention to the writings that have been superinduced upon the map as containing internal evidence of falsehood. What I wish you should confine your attention to in the meantime, is, whether, in regard to the dates of these respective documents, the map, the *ipsissimum corpus* of the paper, on which these writings are made, was in existence at the date of these writings,—the writings bearing the signature of Mallet, in 1706,—of St Estienne, of Flechier and Fenelon, and of John Alexander, in 1707. The three first of these are written on the body of the map, and the two last are pasted upon it. Therefore, in order to make it possible that the three first in 1706 and 1707 could have been genuine, the paper on which the writings are must have existed in these years. Here again you see what has led to the blunder in the title of the map itself. The forger of the excerpt laboured under the

mistaken belief that volume 57 of the registers had perished at sea; and here again the forger of the documents on the back of this map laboured under the mistaken belief, induced by the date of the title, that this paper was in existence in 1703, and of course that a map in 1703 might have been written on in 1706 and 1707. But here the forger was not aware that there was evidence, about which no Jury can entertain a doubt, that though 1703 stands here as the date of the map, it is, as the witnesses swore to you, the date of the copyright of the map—the date of the original publication—the date which, in all successive impressions cast off from the original, even with alterations on the title and body of the map, were still to be preserved, because it was the date from which the copyright was to run, and that for twenty years from 1703. Now, if it had been in 1718 when the privilege of twenty years would not have been run, it would not have accorded with the fact. All the impressions subsequently thrown off have reference to the date of the copyright, and therefore the date of 1703 still remains. It is proved that this custom of throwing off impressions from time to time is the practice of all engravers to supply the demand for the sale; and here you have accordingly before you different impressions of this map thrown off at different times, bearing alterations on the title and otherwise. You have one impression thrown off so late as 1783, when there had been a new privilege, and the date came to be altered, but in all the others you have the date 1703. But then you have, in accordance with that date, every thing as to the title and residence of the engraver. In 1703 De Lisle was not the first geographer to the king,—he was not even geographer to the king,—he was simply geographer, and such was his designation in the original map. Accordingly, in this map of Canada, marked B, you have his designation "Guillaume de Lisle, geographer," in one line, the word "geographer" coming in quite regularly in the arrangement of the title, so as to fill up the line without a blank space; therefore you have no blank after De Lisle, and you have nothing inserted between and the line below. Then you have a copy of the map libelled on, the next in point of date, and here you have a blank, the word "geographer" having been effaced, and you have the insertion of the words in a crowded state, "first geographer to the king." When he became the first geographer to the king, he effaced his original title, and took the title of his promotion; and as it could not have been put in in the regular way, it is crowded in between the two lines, as I

mentioned. Still 1703 remains, because this map bears the privilege of his Majesty for twenty years. I do not know that your attention was previously called to it, but it is worthy of your observation that there are the markings, in the same line as the residence, of the letters of the previous inscription that had been effaced in the copper.

(Mr Adam Anderson.—It appears to be lithographed.

The Court.—What words are effaced?

Mr Robertson.—Part of the original address.) There is a space of fifteen years in which there are other changes of residence, and being in the constant habit, in all his changes of residence and office, to alter the title accordingly, it is plain that in the intermediate space there must have been changes of a similar nature. It also goes to strengthen the evidence that it was not, and could not, be a map of the same date of 1703. Then there is the map in the untitled volume, which still continues to bear 1703, but at the bottom there are the words "First Geographer to the King, and to the Academy of Sciences." This is an impression of 1745, at which time the maps were the property of the author's son-in-law. They leave the original title till after the death of De L' Isle, but here is evidence that the alteration is made — a new patent is given — and it is entered at the bottom.

Now, we have put in evidence the patent in favour of De L' Isle, of date 24th August, 1718: "Patent of first geographer to the king, for the S. De L' Isle. This day, &c. The King, being in Paris, having authentic proofs of the profound erudition of the S. Guillaume De L' Isle of the Royal Academy of Science, in the great number of geographical works which he has executed for his use, and which have been received with general approbation by the public, his Majesty, by the advice, &c. wishing to attach him more particularly to his service, by a title of honour, which may procure him, at the same time, the means of continuing works of such usefulness, has declared and declares, wishes and enjoins, that the said Sieur De L' Isle be henceforward his first geographer, to enjoy in that capacity the honours, authorities, prerogatives, franchises, liberties, wages, and rights, thereto belonging, which his Majesty has fixed at the sum of twelve hundred livres per annum." Therefore, the title of Premier Geographe du Roi did not exist till 1718. What is the conclusion to be drawn from this? Is it to be supposed that the title existed in these maps prior to the date of the appointment? You have Teulet—a more distinct witness no Jury ever had before them—you have him speaking

to the date of his patent, and to his habit of altering the title of his maps; and you have Mr Lizars drawing his conclusions in the same way, proving beyond all doubt, the practice of engravers laying aside their coppers till a sale is called for. All these witnesses conclude, that the paper on which this map is thrown off did not exist until after the 24th of August, 1718. What, then, becomes of the writings in 1706 and 1707? They must have been forgeries, for the paper did not exist till seventeen years later. It might be said, in regard to these several documents, not written, but pasted on the back of the map, that they might have been written of the genuine date, although they are found here; but unfortunately for the prisoner, even this will not do; because, although they may have been written of the proper date, they are attached to the map and bear attestation to it; and, therefore, unless those that are written on the map itself were in existence at the dates which they bear, neither can the others have been in existence, so that it disproved those that are attached to it. If the writings are forgeries, the pastings must be also; they must all hang together; if the first be false, every one of them must be false. Something was said about the line marking De L' Isle as the first geographer to the king having been inserted by means of a double plate; but a double plate would not erase the word "geographer," nor would it change the place of De L' Isle's residence. Besides, it is proved that the copper must have been struck up to be re-engraved, for the marks of the former characters were still partially visible. Then we have put it in evidence to you in regard to the writings under the hands of Fenelon and Flechier, that one of those eminent persons was dead in 1711, because we have produced an examined copy of the patent for the installation of his successor for that year. We have proved that Fenelon died in 1715. We have produced an extract from the Register of the Chapter of Cambray, stating the day and hour of his death. So that the alleged witnesses to this important document were dead before the map was in existence, and yet the writings are said to be theirs.

Then, in regard to Mallet and St Estienne. These are men whose names were never heard of, and there is no proof produced in regard to them. They are men merely of the imagination, and the map can derive no proof of its authenticity from their names. It depends upon the handwriting of the two others, and it is proved in the most distinct manner, that these two men were dead years and years before the map was in existence. Is it necessary, then, to proceed further in

regard to this? Mr Lizars was asked to say which was the earlier and which was the recent impression of the copper. He gave them in the very order in which we find the changes were made, — the one marked B was the oldest, and the one libelled on was the second, just bearing out the real evidence in the case. All those witnesses, likewise, concur in remarking on the ink that was used in these maps. Teulet and Jacobs are both minutely conversant with the process of imitating old writings, which is practised to a much greater extent in France than ever it has been used here. They said that the ink of the writing said to be by John Alexander and Philip Mallet satisfied them that it was not ordinary ink, but made with a composition of china ink, yellow, and carmine, and in various places in these writings they detected the deposition of the carmine on the edge of the letters. Jacobs told you that this had often happened to himself in his own experience. It was not, he said, in answer to one of yourselves, a composition which he had invented, but one which was in common use with designers who were employed to do the same thing, which has been attempted to be done here, to imitate old writing. Mr Lizars, also, though less experienced in such matters, concurred in the view taken by these witnesses, that these writings did not seem to be written with common ink, and he mentioned, that in an ink so composed, the carmine, being the heavier colour, would necessarily be deposited. He said, too, that an ink, resembling in colour that of the writings, might be made up of sepia and umber, but which would be effaced by rubbing; and that, acting upon that knowledge, he had made the experiment, and found that it yielded, which it would not have done had it been common ink.

Then we come to the internal evidence of the documents themselves, and I am now going from stronger points to weaker. It is very singular that such a fuss should have been made about this map of De L' Isle. What had Philip Mallet to do with the Alexander family? What did Flechier and others know or care about the family, as to make it a matter of such mighty consequence to those parties, when, according to this statement of the prisoner, the title had not opened to any of his family? There is Mallet at Lyons, St Estienne at Lyons, Flechier at Nismes, John Alexander at Antrim, and Fenelon at Cambray. Why were these brought into the field — men who had nothing to do with the matter? Was it *dignus tali vindice nodus?* One would have thought that

some important interest of the moment was to be attended to, but that interest did not exist till about a hundred and forty years afterwards. It is impossible to read these letters, as far as I can judge, without holding that they are forgeries. Then Mallet, of whom nobody has ever heard, and who writes in August, 1706, is made to die before April, 1707; and then there is Estienne, of whom fame has heard equally little, and we can find no trace of him. Mallet is dead; St Estienne, his intimate, we know nothing about. Mallet, in this letter, says, that he took the precaution to have it duly attested before his departure. Why did he get it attested? St Estienne says, that Mallet's note is most precious. I do think so, too, but not in the sense he wishes to convey. "I can certify," he says, "that it gives in few words an extremely correct idea of the wonderful charter in question." Wonderful! and what was wonderful about it? "As to the copy of this charter, it is attested by the keeper of the records, (l' archiviste,) and the Acadian witnesses, and must be in entire conformity with the Register of Port Royal. While at Quebec," (and he was also at Quebec,) "I had heard of the grants to the Earl of Stirling, but my friend M. Mallet was the first who procured me a perusal of the charter." Then he gets a perusal of the charter itself at Quebec. "This extraordinary document extends over fifty pages of writing, and the Latin any thing but classical; still, as a Canadian, somewhat interested in its contents, I am bound to say, that I read it from end to end with as much curiosity as satisfaction. The late M. Mallet" (he is now dead) "was a man whose good qualities, and rare understanding make us regret a death which snatched him so suddenly from his friends. He had foreseen that the copy would not make the charter known in France." As a forgery this is quite intelligible. It is the train of circumstances by which one attestation is made to bear upon another. Although what we have to do with it, and what any body has to do with it, no one can venture to say. "He had foreseen that the copy would not make the charter known in France." But do you think that an imperfect note on a map of De L' Isle's would make it better known in France? "Hence he conceived the idea of writing, on one of the beautiful maps of Guillaume de L' Isle, a note which all the world might read with interest," as if all the world were to get at this map. "The copy of this charter would not make it known in France," and it is not one, I think, that all the world would read. "Had he lived long enough, he would have

added to the interest, for he wished to obtain information in England as to the then situation of the descendants of the Earl who obtained the grants; and all the information which he might have received respecting them, he would have transferred to this very map." Why was this gentleman so much interested in the descendants of the Alexanders? Why should means be taken to make all persons in France acquainted with the existence of this charter? What could it concern any body but the descendants of the Earl's family? It is utterly out of the conception of man to suppose, that any thing could interest these parties in regard to this family, when they knew nothing about them. How could they come to take so much trouble about this matter? This is in 1707. Mallet is hardly cold in his grave — we are taken from Lyons to Nismes, and we have here Esprit Flechier, Bishop of Nismes, made to say, that he bore testimony to the copy of the charter with the greatest pleasure. We are here back to the copy, and how he came by it is not explained. This is not two months after the date of the letter of Estienne, whilst the copy of the charter has been travelling as fast as the note, but not in the same direction, for the charter is read at the house of Monsieur Sartre at Caveirac. But why should the Bishop of Nismes be evoked to give this testimony to the faithfulness of this translation? It is incredible, but it is one of the train of circumstances. Two months afterwards, there is a letter of 25th August, from John of Antrim to the Marchioness de Lambert. "I cannot express to you, madam, how sensible I am of the honour of your remembrance. My sincere thanks are also due to Monsieur de Cambray, since he, by facilitating the journey of my friend Mr Hovenden," (we heard that name in the affidavit at which the hand-writing of Conyers was attempted to be proved in evidence,) "was the means of my being so quickly put in possession of your letter, and the copy which you have been good enough to forward to me, of the note respecting my grandfather's charter." (The learned gentleman read and commented on the letter.

Now, this is almost as much to the purpose of the party as if it had been made for them. How does he account for the original charter? His grandmother gave it "to her son-in-law, Lord Montgomery, in order that he might preserve it carefully in Castle Comber, where he resided." There has been a succession of Earls of Stirling from the First to the Fifth, and here we are told that the grandmother, who has nothing to do with the charter, carries it with her to Ireland and

gives it to Lord Montgomery, who has also nothing to do with it. We would have thought that it would have been found nearer to the proper proprietor of it; but no, it is said to have been carefully preserved in Castle Comber, where Lord Montgomery resided.

Now, we come to the Archbishop of Cambray, and he writes, in October, 1707, — "The friends of the late Mr Ph. Mallet will, doubtless, read with great interest this letter of a grandson of the Earl of Stirling. M. Cholet, of Lyons, setting out to-day, 16th October, 1707, on his way home, will have the honour of delivering it to Mr Brossette on the part of Madame de Lambert. To authenticate it, I have written and signed this marginal note." To authenticate what? To authenticate, 16th October, 1707, a letter written on the 25th August of same year to Madame de Lambert, who was the person to whom that letter was addressed! The thing passes all credibility. This is nothing but to get the Archbishop's name on the document. Then there is said to be a seal on the inscription of the tombstone which is on the map. A mighty matter has been made of this seal. I take the prisoner's statement, in regard to it, in the eleventh article of his minute, — "That the document, No. X. is the letter holograph of Mr John Alexander of Antrim to the Marchioness de Lambert, above referred to: that part of the letter and the seal still remain; and that the impression of the seal is the same with that on the parchment cover above referred to." The parchment cover is the document that was found in London, and on which there are three impressions of the seal, and the prisoner's statement is, that the impression of the seal is the same with that on the parchment cover. It is not only a seal of a like kind, but the impression must have been made with the same seal. In the prisoner's declaration, accordingly, his attention was called to it, and he declares, on being interrogated if he has examined the seals upon the packet above mentioned, "that he has not, and is not certain that he ever saw them." And the cover of the packet, being No. 83 of process, being shewn him, declares, he does not think he ever saw it before; but he now recognizes the indorsement as in his father's handwriting, and that the seal attached is an impression of his grandfather's seal. The words he so recognizes are, '*some of my wife's family papers.*' He had seen that seal many years ago; not later than 1825. It is in possession of his sister, Lady Elizabeth Pountney." Now, this Lady Elizabeth Pountney is on the list of witnesses given in for the defender. Gentlemen, the use of the seal there one can easily divine,

but that the seal should have been considered of such moment in 1707, within a month or two after the letter was written, is not so easy to divine. But there is here an important remark to be made,—if, as the prisoner says, his sister was in possession of the seal from which all these several impressions were taken; if there is any forgery in any one of these documents; if we connect the prisoner with this seal; is this not a proof that he was connected with these forgeries. How comes it that this seal is in possession of his sister; and how comes it that this sister, being in the list of the prisoner's witnesses, has not been brought forward to explain in regard to that seal? The next document to be found in the map is that detached from it by Mr Lizars. The inscription on the tombstone bears to be attested by a writing of date 6th October, 1723. "This is a faithful copy of the inscription to the memory of John Alexander, Esq. upon the tablet over his tomb at Newton-Ards, county of Down, Ireland. Stratford-upon-Avon, October 6, 1723. W. C. Gordon, jun." Then there is another document which bears no signature, but which is on the back of the map. "This inscription has been communicated by Madame de Lambert. Since the death of Mr Alexander in 1712, this lady has not ceased to bestow on the son of this distinguished man marks of her good will and friendship. This son is favourably known in England as a Protestant clergyman, and a learned philologist. In the knowledge of oriental languages he is almost without a rival. He is at the head of a college, for the education of young clergymen, established at Stratford-upon-Avon, in the county of Warwick." This, gentlemen, is just another proof of the observation I have been making to you throughout; that it is impossible to conceive how all these things came to be accumulated here for a purpose of the object of which there is no trace whatever. You have Madame de Lambert taking all this interest for nothing. She makes inquiries when there is no occasion for it; and what can be the meaning of all this; but that these documents were accumulated to fill up the links that were said by the Lord Ordinary to be wanting in the prisoner's claim? It is an extraordinary fact that, on removing this document, there should be found an extract from a letter of Fenelon, written in 1698, which you have heard read. There is here an asterisk, which must have been intended to refer to something; and at the bottom of John Alexander's letter there is also an asterisk. You will look at these, and you will see whether it is a matter you can bring yourself to believe, that, at this point of time, all these things should have been going on in 1706, in reference

to this document, as if the public in France had taken an interest in the matter. From the beginning to the end there is nothing in these documents that could be of use to any mortal man but to this prisoner. And just, last of all, look at the figure 7 at the upper corner. Look at that figure narrowly, and you will find that it has been originally a different one. The conclusion I draw from that is, that one is not apt to mistake the date of the century in which they are writing, although sometimes the year. If you were writing in 1723, it is not likely you would make 1623; and if you were fabricating a document in 1823, of date 1723, you might very readily write 1823; and this is a circumstance of no small importance when taken in connection with the other evidence. To my eye, it looks as if it had been originally 1823, but whether it be so or not, may not be determined; but, at all events, you will be satisfied upon examination that it has been a different figure. It looks as if the party had forgot his lesson when engaged in the fabrication of the document. And then, on the back of this tombstone inscription, we have the trace of another map of Canada. We heard from the evidence of Leguix, that there were frequent applications for maps of Canada by an Englishman; and here you have, on the back of one of the documents, pasted over a writing which was meant to be kept out of view, a portion of another map of Canada; and, in all likelihood, this tombstone inscription was written on the back of this portion of the map to prevent you from seeing what was below it; as, had the inscription been written on an ordinary piece of paper, the writing below would have appeared through it. Well, then, you have here a portion of another map of Canada; and it is a circumstance for you to decide whether this may not have been a cutting from one of those other maps of Canada which had been bought by this party.

Now, gentlemen, I have shewn you that it is impossible that any of these writings could have existed of the date they bear, because they bear reference to others of a similar date, by which they are proved to be forgeries. I have proved to you that the ink is a composition, and not a natural ink; and when you look to these letters, and consider the object for which they were brought up, and see how completely they are crowded together on a map bearing the autographs of eminent men, in a manner such as never was before presented in like concatenation, am not I entitled to tell you, that this is a forgery by this party for his own

purposes? And see how well they tally with that which was necessary to promote his end! He may himself have been deceived, let me say; but see how completely they tally in furtherance of his interest! Observe, his title had been reduced because of a defect in two descents which these documents go to supply. They could not have come at a more opportune time, — they could not have filled up the blank more naturally. There was a second marriage to be made out between John of Antrim, whose first wife was the heiress of Gartmore, and Miss Maxwell, to serve the interest of the prisoner; and in his action against Graham of Gartmore, he averred that he was the great-grandson of the marriage between John of Antrim and the heiress of Gartmore. But then in the course of the process it was found that he could not be the heir. In the defences originally it was admitted by my learned friend, that in no part of the record was there any allegation of a second marriage of John of Gartmore; and when he was driven from his stronghold, he says, that it was only by the documents since discovered that he came to the knowledge of his descent from the alleged second marriage. When every thing was struck beneath his feet, he was obliged to take this new ground; and is not that circumstance of great importance, even in the question of a forgery? The appearance of the former case was desperate, and a new ground was in consequence taken, and an attempt to make a new marriage, which was never before known or heard of. Taking all the facts together, I say that such combinations are so incredible as to justify any one in concluding that it was absolutely impossible they could take place.

The bookseller proves to you that there were repeated inquiries at his shop by an Englishman, for a map of Canada by De L' Isle of 1703; that he came repeatedly, and bought several maps of Canada, not giving a large price for them, but buying this "beautiful map" for about fourteen pence; and this was the "beautiful map" that was to be treasured up to instruct the whole of France. It is a map of 1703 that is asked for, and searched for; and why any body should be peculiarly anxious for a map of that date, is a matter which you are entitled to take into consideration. Then this map is got in the house of Mademoiselle Le Normand. Is he acquainted with her? Look at his declaration. He there admits he is acquainted with her. You have all things concurring to support the conclusion that this forgery took place there. This map, in its present shape, we are told, was brought by two ladies, fashionably

dressed, to the house of Mademoiselle Le Normand, and left on a sofa in the room; and this is all the history that we have of these documents. You have no other account of how it was found. You have a dark allusion to a Minister of State, who is supposed to have had the documents in his possession, and to have sent them to this fortune-teller. In her letter of 13th August, 1838, to the prisoner, she gives this account of it: "Subsequent to the year 1789, it (the map of Canada) was sold with a number of other papers. A dealer in old books resold it to an amateur; this amateur presented it to a Minister of State, who was curious in autographs, &c. &c. The fact is, that this map is worthless, as far as French politics go." If "worthless," what was the use of a Minister of State departing from his duty, and robbing the Archives of France, to put into the hands of Mademoiselle Le Normand this document, to advance the prisoner's interest. One proof of its fabrication, independently of all others, is, that there was here no use for concealment. It was "worthless so far as French politics go," and why should there be any concealment. But it could not be accounted for, and, therefore, it dropped from the clouds, like the excerpt from the charter, and like the English documents. You have not one particle of evidence that can account for the discovery in an honest way, but the forgery does account for them. Let the forger be who he may, this excerpt and these writings on the back of the map are each and all of them forgeries.

Now, without troubling you farther upon this point, I shall go back to the fourth and fifth charges; and I think we may proceed to inquire how these two forgeries bear upon them. There is certainly no direct evidence that the prisoner at the bar was actually the hand by which they were forged; but if the excerpt 1639 is proved to be a forgery, just see how important an element that single circumstance is of itself, in proving also that the French documents must be forged also. The two things reflect light on each other. There is no such thing as a French charter proved; it never existed any where. You find it reviving again in a distant place, and coupled with a thousand details, that strangers could not be conversant with. If the excerpt of 1639 be false, then the French documents fall to the ground. If the charter 1639 falls to the ground, is it not strange, that you find in a document published in France, all the important clauses of that charter,—this being only the destination, for nothing else is given useful to this prisoner—revived and brought forth again. It is of consequence that

you should satisfy yourself whether there was a charter of 1639. Nobody can have a doubt of its being a forgery. Then how were strangers, at the distance of a century, to fall upon those details, about a family of whom they knew nothing, which you find in the heart of this document? Who cared about the family of Alexander, and, above all, who knew them? It must have been some one who had a knowledge of the matter that forged or directed these forgeries; and who could it be but some one who had the elements of information necessary for filling up the details which are in the body of that forgery of Mallet's? Who could be the forger? Who could have known about Hovenden, and about John Alexander, and all the other parties brought forward in the civil action, and which were so necessary for the accomplishment of his design? Who could have known in 1706 of things that were necessary for the prisoner to have proved in 1837 as having happened then? Whether the forgery was done by the actual hand of the prisoner or not, is it not clear that it was for his ends, and his ends alone, that this took place? It was from information that he possessed that this fabric was reared. Was it not to raise up a new case in consequence of the failure of the former one? It was necessary for his purposes, then, that this forgery was made. Then, gentlemen, his being alone cognizant of the necessary information, no other person being concerned in the matter, brings the forgery down to himself. Is he not in France after the first interlocutor of Lord Cockburn is pronounced, which actually demolished his case? You find that he leaves this on 18th December, 1836, Lord Cockburn's interlocutor being pronounced upon the 10th. He goes to France under a borrowed name—he will not tell his purpose in going there—he will not tell where he staid—he will not state his name in his passport—he throws Mademoiselle Le Normand overboard in his declaration until she is forced upon him—he is found then in communication, in daily and constant communication, at night with that lady—he makes repeated motions for delay after the interlocutor is signed.

(The Court.—No part of that was read.

Mr Robertson.—My attention was not called to it, my Lord.

Solicitor-General.—Well, then, it is no matter.)

The interlocutor is pronounced on the 10th December, the English documents were found in April, and the French documents were found in July. Where? In the house of

Mademoiselle Le Normand. The documents are not put into the prisoner's possession. He sends over his son to Paris, and the documents are given to him by that lady, and they are produced here in November. Now, when these forgeries are for his ends—when the civil case rendered it necessary that they should appear at that time—when you find him in close communication with the party from whose house they came,—I submit to you that it is proof, with which any Jury ought to be satisfied, that this prisoner was art and part in that forgery. He puts them into the civil action for his own purpose, and he is liable to all the suspicions that would attach to a party in such a situation; and my conclusion is, that if he is not the actual hand that forged them, he is so mixed up with the forgery, and so much in the knowledge of it, that you cannot deal with him otherwise.

It is not enough, however, to hold him to be the forger, or to prove that the documents were forgeries, unless you hold him also to be the utterer with the guilty knowledge that they were forgeries. It is not disputed that he put them into Court. It has been proved, and it is admitted, that the excerpt was uttered by him, and it is proved that the other documents were delivered by the hand of his own son. These are forged documents, and you have his own admission that he is the utterer of them. It was he alone who was connected with the act of uttering. Feeling the importance of what had been transacted in Paris, he comes to Court with the document—the seal is broken in open Court,—he even adds to its authenticity in this way, and he cannot shake himself quit of it,—he takes the whole responsibility on himself—he obtained the document in France—he brought it here and put it into the hands of the Court himself. This is a most important element for your consideration. It will not do to convict him, even although you were satisfied that the documents were forged, till you are satisfied that he has been the utterer in guilty knowledge. If he is the forger, he must have been the utterer; and if he has been forging and uttering, there can be no question as to his guilty knowledge. But if you should hold that there is not such evidence as to make him the actual fabricator of the instrument, or art and part, and cognizant of the fabrication, then it is necessary that he uttering the document be proved to have so uttered them in the knowledge and belief that they were forged. Now, on that point I think there is the strongest evidence. The presumption is always against the utterer, unless he clear himself to the satisfaction

of the Jury, and give a satisfactory account of how the document came into his possession. It was for him to explain how he was deceived. He is on his proof, and he must free himself from the delinquency. The *onus* is upon him, and upon him alone. Then, again, here is not only the legal presumption against this prisoner, but it is his interest that is alone advanced by this instrument. You have heard it proved what he did between 1829 and 1831 by the evidence of Tyrrell, who shews how much money he raised on the plea of that fabricated excerpt. He raised L.13,000 upon it, and made use of it in eighteen months. From being an obscure schoolmaster in Worcester, poor in circumstances, his family in distress, all at once he starts up the Earl of Stirling, and on no better ground than in that excerpt. He possesses himself of the property of others to the extent of L.13,000. He tells us in his declaration that he opened an office in Parliament Street, London, for the sale of lands in Canada, and he admits that he issued an address to his Canadian subjects. All this was to advance his own end, and to enable him to get money without any thing in return. He does all this at a time when he had nothing to go upon. All these doings are for the purpose of advancing his own interest under circumstances which no honest man could have thought of adopting for such an end. He gets money advanced to him on a shadow—on a document that has turned out to be a forgery. He raises L.13,000 to benefit himself under circumstances which would be considered usurious on the part of the lenders, by what one of yourselves called a contract of hazard. He gets a number of paintings, and sells them again. It is out of the ordinary course that he goes to deal with the matter, and all that he does is grounded on this fabricated instrument. At this time he was proving the tenor in Court. The first action was brought in 1829. It is dismissed. Is he staggered by that? Does that cause him to give up his practices? He enters into a second process in 1830, and again he makes use of the same documents as adminicles of evidence, which he was told would not sustain him. Not only does he do that, but he raises an action of reduction-improbation and declarator in the Court of Session against William Cunningham Graham of Gartmore; and it is to support that reduction, and to enable him to raise money on the security of the Canadian and Scotch estates, that all these acts take place. Is it possible, then, that there could be other than guilty knowledge of the forgery of those documents in this

individual? See the necessity under which he was labouring, —see also his interest in advancing them. He had no other means to prosecute his alleged claim than by forgery. He was a man of desperate fortunes. He had become a mere adventurer in the market, and I say it is utterly impossible to give him the credit of good faith in this matter. An honest man, having a just claim, would first have established his title. It was impossible that the prisoner could do this; but if he had believed it to exist, he would have gone to work in a totally different manner. He would have gone to establish his right to the peerage in the first instance, and his right to the titles in the second. If a person goes from shop to shop —a poor man say—passing a pound here, and a pound there, and a third in another place, and they are found out to be forged, the repetition of the fact, and the impossibility of giving a good account of how he came by them, is a proof of his guilt. These are the circumstances that fix the crime upon this prisoner. When you find him in possession of nothing but forgeries, when you find him uttering them again and again, what is he but a person in the same circumstances with many others whom you have seen so often convicted of forgery at the bar on evidence not of so striking a kind, convicted by the mere repetition of the crime? Look at the proceedings, and how they began. He is proved in 1815 to have had no title. Corrie says, "I won't be your solicitor, because you have shewn me nothing that can support your title." In 1829, what had he but the excerpt, and was he entitled, on that miserable document, to rear himself into the Earldom of Stirling? He issues his proclamation to his Canadian subjects, he passes his service, and still he has nothing but that excerpt. This title is challenged in the most solemn manner. The Officers of State bring an action to shew that it is false and forged,—he is put on his guard, and does he now take benefit of the knowledge and warning forced on him? No; he still perseveres. His title was knocked from under him in 1836. The Lord Ordinary puts the case on grounds which he must have seen utterly demolished his claim, which, for twenty-one years of his life, he sought to maintain. All was a falsehood during these twenty-one years, and now he saw that it would not serve his purposes. The title which he sought to maintain, from the date of that interlocutor he was forced to renounce. Does he now depart from a plea raised on a grant which he saw to be false— does he do any thing to make reparation for

the sums of money he had obtained unworthily — does he stop in his practices? No, his story now is,—and is it not a proof of guilty knowledge?—"I will prove a second marriage — a marriage with Miss Maxwell. I am now descended from Miss Maxwell." Should he not have been cautious before he changed, and took up a new position, when he found that Gartmore was a family with which he could not connect himself? When he found that all would not do, should he not then have changed his course, and made amends for all the evils he had done, by at least proving the second marriage before he went farther? The Lord Ordinary's interlocutor is dated on the 10th December, 1836; and he leaves this for France on the 18th December. On the 10th December, his family are in the management of his case. They are resident in Edinburgh — they are here on the spot; but he is not proved to be resident in Edinburgh, living with his family. He is found leaving this country on the 18th, and on the 21st he is in Paris. Where was he then? Has he told you? What do you know of him except this, that he was staying nobody knows where, and that he was doing nobody knows what, unless he was engaged in this very forgery? He was in constant communication with nobody except Mademoiselle Le Normand. Beaubis told you that he called upon that lady almost every evening at eight, and remained till ten o'clock. In his own declaration he says, that he occasionally did visit her. There he is then at her house, even on his own declaration. He is there frequently daily, and it is the only house in which you find him, and the only person with whom you find him in communication is this Mademoiselle Le Normand. These French forgeries were then executed. This map is discovered, and it is produced for his purposes. His attention is called by the Court to his acquaintance with Le Normand, and he is required to explain how the document came into his possession. He makes a declaration which has been laid before you, and though now put upon his guard, he adheres to every thing that he said before, and maintains that he is in good faith in regard to this document. The forgeries were committed when his case was desperate — when, unless something additional was done, he must have gone to the wall. It is not immaterial to notice, that every thing he has gone upon is anonymous. The similitude of the hand-writing, which is nothing, has been talked of, and all that can be said of the document is, that it is a good forgery. It is written with an ink of a certain composition — there are colouring

matter, and acids found in the paper, and every thing was found that was expected to be found under such circumstances. It is impossible, then, to say, that he was not connected with the forgery. His claim is utterly done away with by the Lord Ordinary's interlocutor, and nothing but the interposition of Providence could have come to his aid. He departs from this to make up the links found to be wanting in his descent, and he brings no more than what is necessary to bring out his case. Has he given always a right account of those matters? Look at his declaration in the Civil Court. (The learned gentleman then read over the prisoner's judicial declaration before the Court of Session, and his declarations before the Sheriff, pointing out various discrepancies, particularly with regard to the debt to Mademoiselle Le Normand.) He admitted that he was in debt to her 400,000 francs, that is, L.16,000, but stated that it was to be paid in fixed instalments, and without any reference to his success in the action; while, from a document found in his desk, it was proved that he had become bound to pay her 100,000 francs within six months after he had recovered his estates, and the remainder in instalments thereafter. This was a matter that could not have escaped his recollection. He said, in his declaration, that she trusted to his honour; but the search of papers made at his house completely disproved that. He refused to tell under what name he travelled, and where he stayed — he refused to give the information that might establish his innocence, if he was innocent, and he had not, down to the present moment, told any thing in regard to these matters, and was contented that the case should go to the Jury under all those suspicious circumstances. In what manner could any body be compromised by his disclosing under what name he travelled, and where he lived—and for what conceivable reason did he conceal this information from the crown, if his proceedings in France were innocent, and when he knew that, if innocent, his case would have been benefited by the disclosure? He had thus brought a charge against himself, and would not enable the crown to deal with the question of his innocence. He had not told how the advances were made to him by Mademoiselle Le Normand. The obligation he gave her for L.16,000, was totally unaccounted for. He said it was for an absolute debt, and had no reference to the present proceedings. On the search, there was found in his house the following document under his sign manual. (The Solicitor-General then read the Extract, No. 53 of Productions,—p. 82.) Where now was the statement in his declaration, that this

debt had no reference "to the present proceedings." He and she were joint fabricators of those French documents, and both of them interested in the proceedings. Do you then believe that you would have heard a word of the truth of these obligations, if the prisoner could have helped it? Do you believe, that in his declaration, he was speaking the truth. Why did he not tell the truth? What occasion was there for fabrication? Could it have been any disgrace to him that Mademoiselle Le Normand had been enabled to accommodate him with L.16,000, and that he was to pay it back to her. His declarations are contradictions from beginning to end. Another suspicious circumstance is, that in his correspondence with Mademoiselle Le Normand, she had intimated to him that they had found out the man at the quay, and that they wished him to go to Scotland. This was the man who had sold the map to the prisoner. Another suspicious circumstance was, that Mademoiselle Le Normand cautioned him to destroy all papers and letters that might be prejudicial to him. These are points which I merely wish you to keep in view. The Solicitor-General then commented at some length on the letters of Mademoiselle Le Normand to the prisoner, which, he maintained, brought the two parties distinctly into contact in the fabrication of the document. Then as to the English documents, they, too, had been found in the very nick of time, to be produced in Court. It was for the Jury to look at those documents with the rest, and say whether they were not forged as well as the others. It was impossible, he conceived, that they could find the one set of documents forged, and the others not. Was it not odd, continued the learned gentleman, that precisely at this time they should get, through the twopenny post, another set of documents, which, when dovetailed into the other, acted their part in the filling up of the defects in the pedigree which the Lord Ordinary proved to be wanting?

The Court. — Do you mean to say that the writing on the back of the parchment is a forgery?

Solicitor-General. —We think there is evidence to go to the Jury as to these English documents being a forgery. I admit that there is no direct evidence in regard to them; but see how closely they rivet and dovetail with each other. I say there is real evidence in the case, by which you can come to the conclusion that they are forgeries. They are all parts of the same grand machinery; and I leave them, gentlemen, in your hands without farther comment.

I am now about to relieve you from the case, so far as I am concerned, in which I fear I have taken up more of your time than I would have required to do, had I been more thoroughly acquainted with all the details. Unless something else is discovered, it is clear as light that the pretensions of the prisoner are a mere shadow. All that you have here is excerpt from an alleged charter of 1639, said to have been lost. Its loss has not been accounted for, and its existence has been demonstratively negatived by all the records and registers in which it must have been expected to be found had it ever been in existence. The excerpt itself has been proved to be a forgery. Its history — how it dropped from the clouds—remains a secret. You have the whole pretensions of the prisoner struck down by the interlocutor of Lord Cockburn, after the most patient and anxious deliberation, and after every opportunity had been given to the prisoner to prove his case. That brings us down to 1836. The prisoner's case was now desperate,—it was lost beyond all powers of recovery; and while it is in this condition, he flies to France for the concoction of other documents. You find him in France, and remaining there for no purpose assigned. You find him with Mademoiselle Le Normand when we say the fabrication of the documents were going on. The declarations of the prisoner shew his unwillingness to tell the truth, and they are full of contradictions. Then you have the obligation for 400,000 francs unaccounted for. You have Mademoiselle Le Normand dreading his apprehension, and telling him to destroy such of his papers and letters as might be injurious to him. Then you have letters proved to have been made up for double purposes: one set for the private eye of the individual, and another that they might be laid before the judge; reduced into English, the originals being destroyed, it is said, for the purpose of being laid before counsel; just as if his counsel were less qualified than he is to translate the letters of Mademoiselle Le Normand. Then we have the evidence that Leguix, the man on the quay, was at this moment selling a map of Canada, of date 1703, by Guillaume De L' Isle. Then you have the letter about "l' homme du quai," — it is before you,—read it and deal with it as you think fit. Then you have the prisoner giving contradictory accounts of the debt of 400,000 francs to Mademoiselle Le Normand; and there is found in his repositories what utterly falsifies his statements, that it was left to his honour, and that it was to be paid by fixed instalments; and this fixes down Made-

moiselle Le Normand with having a hand in these forgeries, and shews her interest in the success of the proceedings, on which the payment of her 400,000 francs was to depend. And when all these forgeries are still defended, not given up, and the defence is not that the prisoner was deceived, — that Le Normand had deceived him, and had got from him the obligation of 400,000 francs,—it is impossible for you to come to the conclusion, that he was not in the guilty knowledge of these forgeries.

Of the character that was given of this individual by his friends I have little to say. I am not here to refuse my assent to the friendly testimony that has been borne by all those parties. I believe that all of them have stated the honest sentiments of their breasts. It is impossible, looking at what they are, to doubt for a moment that they were speaking what they believed to be truth. I am only sorry that the prisoner is in so peculiar a predicament, that that character, excellent as it is, can hardly avail him when there is evidence of the fact of the forgeries, and of his guilty knowledge of them. The crime with which he is charged is not one which would necessarily make a man a cruel father or an indiscreet husband, or place him in a predicament to prevent him from fulfilling his ordinary duties in society. On the contrary, the game he had to play made it necessary that he should preserve the good character which he had. He was aiming at honours, lands, and estates; and it was necessary that he should be careful to conduct himself in every way as a gentleman. I have not the least doubt that he could easily manage to carry on the correspondence which has been talked of, as successfully as if he had never been charged with the commission of a misdemeanour. It is proved that he is a clever man. I have no doubt, in short, that he deserves much of what has been said in his favour; but if these be forgeries, he being the forger, what are you to think of him, engaged as he has been in such a correspondence with Mademoiselle Le Normand, the fortune-teller, as has been proved to you, and giving her a bond for £16,000 for we know not what? What are you to think of the man who raises £13,000 on a false document, and spending it in an extravagant manner? Is it conceivable that a person of right feeling would have led the life that he has done? All at once, like a fly bursting into life, he becomes a flutterer in the streets of London, spending other people's money. Was that honest? If the gentlemen who gave him the character, which we have heard, were not in a situation

to know how he was living, I put the evidence which has been adduced before you in opposition to all their characters; and I give him the full weight of every thing they have said. I ask of you no verdict but that which is necessary to protect the public. I ask no verdict than that which will prevent this prisoner from going back to his former practices, — raising actions against the proprietors of Gartmore and Tullibody, to deprive them of their possessions, on the fabricated documents which are before you. I ask you to do nothing against him which you do not think he deserves. But if you believe him guilty of the charges laid against him, do not out of cowardice or good nature yield to the high character which has been given of him by gentlemen who are not proved to have been in a situation for a length of time to know him intimately, and who only saw him at intervals. All I ask of you is to deal with him as the justice of the case demands.

Mr Robertson.—May it please your Lordships, Gentlemen of the Jury.—Had this been an ordinary civil case, I should at once have departed from the arrangement which I have intended to follow in addressing you on this occasion, and have begun by making some remarks on the very extraordinary tone of several of the observations, in the concluding part particularly, of the very able and very long address of six hours, now concluded by the prosecutor. Even yet, gentlemen, now that I have risen to address you, I can hardly restrain myself from departing from that arrangement, and making some remarks on the extraordinary circumstances, the pushing and twisting of judicial proceedings founded on by the solicitor as proof of the guilty knowledge of the prisoner at the bar. But my duty to the Court, my duty to you, bids me restrain my own feelings, and keep back to the conclusion that which, in spite of all my efforts, is rushing at this moment into my mind. I proceed, then, to look at this case in as calm a tone as my feelings, almost overpowered, will permit me; trusting that that special Providence which watches over the interests of truth and justice, will guide me through the heavy task I have yet to perform; trusting that the light of truth will dart through those narrow crevices within which much of the case has necessarily been confined; confident that you will return no verdict from "cowardice or good nature;" sensible that you see that the prisoner has undergone the utmost rigour of examination; aware that there has been the most abundant

search, the most careful examination of all his documents, even down to the little scratch on a letter from his son, where the prosecutor, with my permission, may put in any word he pleases; resolved while the breath remains within me to rebut the charges that are here made, and to express my confidence that no ability, even if greater than that already displayed,—no expenditure of time or eloquence, will concuss you into a verdict that will doom this gentleman, hitherto of unsullied reputation, to disgrace and infamy; to leave no inheritance to his children but that of an outcast from society; because, of all the cases I have heard or read, I have seen none more weak, none more pressed,—none, with deference, more insufficiently pressed,—than the present case, the issue of which you now have to try. What is it that I ask? What have we to do here with the sovereignty of Canada, with the estates of Gartmore and Tillicoultry, with the protection of the proprietors of these estates? The pursuer stands on the documents; and the issue between us is not, shall he be Earl of Stirling? shall he make baronets? shall he have his possessions, and borrow money on these possessions? If that were the issue, I am not sure that I would not instantly walk out at that door. That is not the issue, nor any part of the issue. I am claiming nothing here but your protection, your justice. I am seeking no estates; I am in competition with no party; I am defending myself against the gravest charge that can be made at the instance of the crown. I admit the circumstances connected with the proceedings may be competently referred to to make the case intelligible, but beyond that, it signifies not a farthing to this issue, whether my client has claimed the vast territories of Nova Scotia, and of New England, or an old house belonging to his father in one of the most obscure burghs of Scotland. The issue is—it is one issue,—has he forged, or, what is the same thing in the law, has he not guilty knowledge of forging a variety of documents now before you? Gentlemen, I shall go through them in detail presently, but at the outset, let us look to the nature of the case generally as stated by the crown. There is but one prisoner at the bar; you know well the honourable position occupied by the gallant officer now near me. There is no accomplice stated in the indictment; there is none named in the course of the proceedings; there is, of course, no *socius criminis* produced; none of the persons in contact with the prisoner—excepting Mademoiselle Le Normand, of whom we have heard so much—is said to have had any thing to do with

the forgery. My friend Mr Lockhart is not an accomplice; my excellent friend near me,* who committed many of these acts of guilty knowledge, is not an accomplice; Mr Banks, who was last seen in the crown office, and who ceased to have communication with the prisoner in 1834, is not said to be an accomplice either of the forgery of the charter which made its appearance in his day, or in the forging of the French and English documents, which did not come for several years after. All is charged as the act and deed of one man, so far as the charter is concerned, and of one man with the assistance of one aged woman, why not brought here, the public prosecutor has not explained. And with these means what is the nature of the charge of forgery in the indictment? Besides the few incidental forged documents stated in the record, we have in this indictment a forged Latin charter, (I call it a charter generally, just for the sake of the word,) not certainly formed with all its quæquidem clauses and reddendos, —of which you know about as much as the prisoner, although he did keep a school at Worcester, where they do not teach Chancery Latin,—of a great many pages in length, shewing not such a profound knowledge of the law of Scotland as my eminent friend, Mr M'Kenzie, who has all his life been studying Hope's Minor Practicks, and by virtue thereof has gone beyond the crown lawyers, I mean of a past day,—whether he has excelled those of modern days, experience does not enable us to say,—with a knowledge of Scotch history, in which he has made no mistake save one—with a knowledge of the whole history of France, introducing, as my friend well expressed it, the names of the most eminent individuals of that age, in regard to none of whom has he committed a single slip, with the exception of the date of the appointment of William De L' Isle, not a very important fact in the history of France. There are altogether forged, besides the charter, ten French documents of various — apparently various — handwritings, all bold and free, as one of your own number observed, besides six documents sent by the twopenny post, one of which, by the way, the prisoner has proved, although the crown contends still that it is a forgery,—all these ten without an accomplice, and without suspicion, written, some of them in the French tongue, some in the English tongue, and not one of them sworn to by a single man of skill as resembling the writing of the prisoner or Mademoiselle Le Normand. Mr Lizars, giving a decided opinion, says, there is not a trace throughout the whole seven-

* Mr Adam Anderson.

teen forged documents, of any resemblance to Lord Stirling's writing, or Mademoiselle Le Normand's; and in that condition of the case, at the very outset, you are by virtue of chemistry — whereof more anon — by virtue of comparison of ink — whereof considerably more anon — to come to this conclusion, that a man of unsullied reputation, or, rather, as my learned friend seems to put it, as one who got up a false good reputation for villainous purposes, — like a man I once heard of who was said fraudulently to conceal his own insanity, — you are to believe that, forgetting all his reputation — forgetting all his classical Latin got at Worcester—forgetting, during seventeen different forgeries, his own handwriting, and allowing no trace of similitude to escape,—he has forged the whole of these seventeen documents, or got them forged by somebody unknown. (As to the charter on which he founds his claim, I suppose the art of divination did not enable Le Normand to forge the Scotch charter.) You are called upon to believe that he has forged all these, and uttered them in guilty knowledge, — and you are called upon to prevent him from picking the pockets of more innocent men who gave L.13,000 and took security for L.50,000 in return, and an honest woman who took bonds for 400,000 francs for that which is of no value, and to protect the public against all such fraudulent depredators. You are called on, in an address of six hours, to investigate — what even to the eye of a lawyer are terrible in extent — thirty-eight documents, and God knows how many processes to boot. And you are to wade through chemistry, and every thing except the black art, in order to give a verdict against this prisoner. My feelings are now a little relieved — my nervousness is gone — and I am not so angry with the public prosecutor as I was, because from your countenance I already gather the cheering light of an acquittal. I would not be much afraid to stop now. I do not believe there is a man within these walls, nor a lady either, who is ready to return a verdict condemning the man to infamy in such a case as this, even before the prisoner's counsel has entered into details. But I have only begun. And first, in regard to the charter of 1639. I am not going through more of the mass of legal phraseology than is necessary to explain the case — I am not going to make the slightest attack on the accuracy of the law, as proved by the witnesses, with respect to charters of novodamus. I admit at once, that a completed charter passing the great seal is a totally different thing from a precept or warrant for that charter. I also admit that there is

pretty good evidence, although by no means do I admit that there is *all* the evidence that there ought to have been in regard to the charter of 1639 not having been entered into the record; but the paper before you is not a charter, and never was stated to be a charter. When or where it was forged, as the prosecutor says, is not stated in the indictment. The time and place are unknown to the public prosecutor. It was produced in a process called a proving of the tenor, in the month of January, 1830; and that all these papers were put into Court is a matter I am not disputing. It made its appearance in Court in the proving of the tenor. One would have imagined, if it had been so plainly and palpably forged, so bungled a forgery, that the crown would at once have stated — this is a forged instrument. Lord Stirling, as he called himself most unwisely, wished not to produce this as a charter to give him a right, but as an adminicle to prove the tenor of the charter. In the indictment before you, it is described as an ancient and authentic excerpt or abridged copy — it never was said to be any thing more. Had it been a charter, the proving of the tenor would have been ridiculous, because you all understand the proving of the tenor is to prove the contents of an instrument that once existed, by certain adminicles of less authority that now do exist; it was therefore because there was no charter that the proving of the tenor became necessary—it does not follow that the document may not be a forgery, but it follows necessarily from it that the document is not, and never was said to be, a charter. Being so convinced that I state this correctly, I do not trouble you by referring to the words of the summons. It is produced as an excerpt, and said to have been found in Ireland, and tested by a Thomas Conyers. One would have imagined, if it had been so plain a forgery, the crown would have said so. It was the interest of the crown to plead so — the duty of the crown to say so — to have the crime instantly detected; to say so in the first action of proving the tenor, for there never was a process of reduction of the charter at all — there never was an allegation that the copy charter was forged till this indictment was served. The defence against the first action of proving the tenor was this — you call yourself Earl of Stirling, you have not sufficiently established your title as Earl, and therefore we shall not hear you; you shall not be allowed to state your case under that name, and therefore we dismiss the action. That action was dismissed. Then came a new action of proving the tenor, in which, although he still continued to call himself Earl, he

stated first, he had a right to certain landed estates in Scotland. What was the defence against the second action? Was it, your instrument is neither one thing nor another, it is a gross forgery? No, there were a variety of preliminary defences there also. The fifth defence was in substance this, — The instrument is not a charter; it appears only to be a precept for a charter. Accordingly, the Court, in March, 1833, pronounced a judgment finding that, as this only appears to be a precept and not a charter, it cannot be held to be a sufficient proof of success in the tenor of the charter that is lost. Well, there was no forgery alleged in that action. It had been seen first in private by Sir William Rae, who, although I have no doubt he never admitted that it was a valid instrument to give the prisoner the title, never suspected that it was forged, else he would not have betrayed his public duty by not ordering an immediate investigation into the forgery. It is in Court from 1830 till 1833; it is unsuspected by all the lawyers; whether they have taken chemical means, and followed such as they have done to prove its incorrectness — whether they have studied all the books to see whether it was a true document or not — they never suspected that it was not genuine; and it lay there from 1830, up to the institution of these proceedings, in which we are now engaged. It stood for ten years unchallenged, deceiving the wisest, and the best, and most experienced in matters of this description. It does not follow that it may not be an absolute forgery; but there is a mighty difference between a plain and palpable forgery, and an obscure and difficult forgery. Is it then a forgery as proved now? Let us look at it. Gentlemen, there are a variety of objections to it. The first that I refer to, is the one containing the marking as having been registered in the great seal. Gentlemen, I do not dispute that a charter of that date could not have the contractions *Reg. Mag. Sig.* I admit that no charter with a testing clause could have *per signetum;* I admit the signet precept could not operate in the great seal; and having made these admissions, I think it is unnecessary to enter into the evidence on that subject; but be pleased to observe that it is not a charter but an excerpt copy of a charter. It appears to be so; the words in the summons are, the pursuer is possessed of an abridged copy or excerpt of a charter. Now, an erroneous but genuine copy is a very different matter from a forged principal. Now, look at the instrument, with what is in it, and what is not in it; look at the proper parts of the instrument; look at what is below and

what is at the top of the instrument — where do you find *Reg. Mag. Sig.*? At the top and on the margin. Mistakes in the Record Office, it seems, are out of the question; office men are always correct; they never can go wrong. The *Reg. Mag. Sig.* according to Mr Whytock, is of a blacker shade of ink than the rest of the deed; Macdonald differs from him; which of the two do you wish to believe? which of them is the more accurate? is either of them infallible? But if the *Reg. Mag. Sig.* be a shade darker than the rest of the deed, then it is no part of the copy according to their theory. Then, so far as the instrument is concerned, it does not bear that the charter ever was recorded: therefore it is consistent with the theory of there being no charter upon the register. *Reg. Mag. Sig.* is not in the body of the deed, only at the corner, and if an *ex post facto* operation, all this about the register vanishes at once. But, was it in the register? It is a little curious that a part of the register of that day is amissing — some blockhead imagined that it was carried off in the times of Cromwell; and some I might even say greater blockhead,—for I do not know who drew the summons,—but some other blockhead put it into the summons; and my notion is, that somebody, for a jest, — perhaps some malignant against Mr Thomson's new regulation, — stuck the *Reg. Mag. Sig.* on the corner of the old Irish bungled copy, and on that theory away go the city of Edinburgh charters registered, and all the searches. They were all made in the usual way; yet it is a little odd that Robertson searched the minute-book in one place, and the full register in another place; he searched the register of signatures, privy seal, great seal, register of sasines, &c. and, as brought out by examination, there are instances, rare I admit, of sasines recorded which are not in the minute-book.

Then there are blanks in the register; they are supplied by the indexes, we are told. *Nice* things these indexes are. Mr Thomson told you the indexes were not proper records, that they were made up by inferior persons at the office—not made up at the time. One of them had wandered to the Signet Library; it was traced there, and had been charmed back to its original pasture as a sheep, with a view to this trial; it was found to be more accurate than the one kept in the office. There was only one blunder in the one that came from the Signet Library—there were six in the one that was kept in the office itself. The one, and that one the more accurate of the two, was made subsequently to 1721—eighty years after the date of the charter, of which it is to be the

proof. The indexes are, according to Mr Thomson, made by inferior officers. But, gentlemen, it is of very little consequence if these are accurate or inaccurate: take away *Reg. Mag. Sig.* from the corner of the paper—that explains the whole mystery. *Per Signetum* is a most suspicious horrible looking thing—Macdonald started at it. It is from the *Per Signetum* and *Reg. Mag. Sig.* that they draw the conclusion that this could not be a recorded charter, and a precept from the signet office. This *Per Signetum* is at the end of the deed—it forms no part of the deed, although we have had a mighty flourish about it. The "Gratis" is a little farther up, and we were told that it was not likely to be there, but might have been there. The whole of the suspicion as to the genuineness of this document arises from the title *Reg. Mag. Sig.* at the corner, and *Per Signetum* subjoined; and had these two little things not been there, at least a day's proof might have been dispensed with. Will you, on such trifles as this, unless there is more in the matter, hold that this blundered Irish excerpt, (for no man ever said it was more,) got from Conyers, was a deliberate forgery. It is very odd if that man who put the *Reg. Mag. Sig.* there knew that the 57th volume had sheets awanting, and so wants to prove—it is very odd that he should have invented the story of Cromwell—it is strange, if Cromwell's story was to be the thing, that they did not compare this with the register, and see whether it is in the register to-day. What have I to do with Cromwell? Is the prisoner to be responsible for all these writs—writs which he could not read, could not understand, unless otherwise as good a lawyer as M'Kenzie, and a better lawyer, I suppose, than those who had it before them, but who never suspected forgery for ten years. But there are things in the copy itself, independent of the *Per Signetum* and *Reg. Mag. Sig.*—the reddendo is awanting, most terrific circumstance! Was there ever a charter seen without a reddendo? Never in the world! says M'Kenzie—never in the world, every lawyer re-echoes. There never was an excerpt with a reddendo, says Mr Thomson. This is not a charter—it was never said to be a charter—it is an excerpt from a charter—and excerpts without reddendoes are innumerable; but the *quæquidem* has gone wrong—the resignation is not made by the right fiar, therefore it is forged; why did they not see that at first, when produced in the proving of the tenor? It would have been an odd error in the original, but in a blundered Irish copy it does not seem to me at all singular. The reddendo was of

little consequence to him, it was the grant in his favour; therefore the omission of the reddendo in an excerpt is in itself of not the slightest importance in the matter. Gentlemen, there was another discovery made by the acuteness of one of their Lordships, that the commoner was called "consanguineus." We have heard a good deal of Scotch cousins, probably there are Irish cousins also, and there may be a mistake in that copy—and remember it is but a copy—nobody said it was more. It is of a date nearly two hundred years ago; and because we cannot explain every little defect in this excerpt, you are to jump to the conclusion that it is a forgery. Spottiswood is an attesting witness. I suppose when you heard this you imagined that he had subscribed it. No; the testing clause is not subscribed by any body—it does not say John Spottiswood. I am not founding on this as a valid charter—I never did—it says "John, by the mercy of God," and there follow six or seven testing witnesses. It is not said that these other witnesses are placed there improperly; so that all that takes place is this,—for I admit that they believe that Spottiswood had demitted at that time,—that Archbishop Spottiswood's name appears on this Irish copy by mistake, while all the other six witnesses in the testing clause are there placed as they ought to be, for not one of them is impeached; and considering the prodigious care exhibited in this case, depend on it, if the Marquis of Hamilton had not held that situation, then this would not have proved itself to be, what it is said to be, an actual and deliberate forgery. What is said of this excerpt? It is held out only as an Irish copy, and one or two things have been overlooked. Certain red lines are not applicable to a deed bearing this date—the red lines did not exist till 1780 in his office. This is in favour of the instrument—it is an Irish copy, and produced as such, and so stated to be. It is not in a Chancery hand, we are told; but it is like the hand in England or Ireland. Then there are erasures and rubbing—Whytock and M'Donald attach no suspicion to this, but yet the Crown, as if that were conclusive, try to bolster up their success, by proving rubbing and erasing, which even their own witnesses do not think suspicious at all. Thomson thought the ink too brilliant; and if any man will venture to pronounce an instrument forged by the appearance of the ink, he will, indeed, be a bold man. What is the age? Mr Thomson does not think it so old as 1806—thirty years ago. It did not make its appearance till 1829: was it buried up from 1806 till 1829, when we were told it was so

essential for this party to produce a title? Whytock cannot swear that it is more than fifty years of age. And then it was examined by Dr Fyfe and Dr Madden; the proceedings taken were unusual—I do not say improper—fortunately they were taken; most fortunately for the interests of the prisoner, these gentlemen examined it apart; and hereafter, unless scientific witnesses are to be exempted from courts of justice, which I think would be no great loss either in criminal or civil cases, let especial care be taken that they be examined apart. One of your own number put some questions to Dr Fyfe, and we got very singular answers to some of them. I am not surprised at the difference of opinion among scientific men, for in the last long case in which I was engaged, one set of witnesses swore that certain water was the purest they ever saw, and certain others swore that it was the most impure, but that the nearer they got to the discharge of a dye-work, the purer it became. I am not going to follow Dr Fyfe—it might have been necessary had he stood alone, but it is unnecessary, where there is so much labour still before us, to go into such case now. All those grand theories about sulphuric acid, and investigation by liquids, and God knows what, all come back to this—that Dr Fyfe thought that it was not old paper, and Dr Madden thought it was. And, in this awful case, the separate mysteries so obscure, and separate registers and indexes, and lawyers drawing conclusions from extrinsic marks, they take their last and final stand on the chemical evidence. These gentlemen are enclosed—they get a night and morning to operate with their chemistry—the result is, that by the same experiments, one says it is ancient paper, contradictory of the other, who says that it was not older than 1806. But look at the folly of this. Be it that there are many matters of history that I cannot explain in the Irish bungled copy—the Crown attack it, on the ground that the paper is new—the paper turns out to be old paper, according to Dr Madden, and supports the document as an old document. If it is old, I do not care whether it give me Nova Scotia or Canada—I care not what it gives me, in this case. It does not follow that because the paper is old, the writing must be newer. If the paper be old, the whole case has broken down, and in a case of forgery that is most important for your consideration. The charter, as I told you, never was produced in the process of reduction—it was produced in the proving of the tenor, but never in the process of reduction. The reduction that was brought at the instance of the Crown, was a reduction of the general and special services—

not the reduction of a charter. In that process, certain instruments were produced in order to keep up the pedigree established. I shall endeavour to keep as close as possible within the evidence emitted to the Court—it is my duty, if I differ from the Court, to say so; but in that process of reduction, Lord Cockburn pronounces a certain interlocutor, and that refers to a certain record. In the record to which the documents belong, are a variety of affidavits, particularly an affidavit by Hovenden, a statement by Gordon, and an affidavit by Pountney. These are stated in three articles of condescendence to be all false and fabricate. Gentlemen, it was admitted that the affidavit of Pountney was not produced in the process—there was an excerpt of the proceedings before the Canongate, where the original remained. The original was not produced; and I must say it was a little Irish to challenge the certificate of Pountney as forged, without seeing it. The Solicitor stated, we might have brought her in evidence—she is in our list of witnesses; if we had adduced the sister of the accused in evidence, we should have had a pretty flourish about it; but if the certificate of Pountney is forged as stated, and if she is here, as my learned friend says, ——

Solicitor-General.—There is no charge against Pountney. It is not in the indictment.

Mr Robertson.—I know it is not in the indictment. We are told that Pountney is here. Would it not have been more reasonable to have brought her to prove that she never signed that document. They say it is forged, and they do not attempt to prove that it is so, but twit me because I do not bring my own sister to prove that it was not forged. Lockhart swears that Hovenden and Gordon's statement, with Conyer's attestation, were produced long since, in 1826, with the first summons, three years at least before the alleged getting up of the charter stated to be forged in 1829. What does Lord Cockburn's note bear? After referring to another affidavit, "the affidavit of Henry Hovenden, which is a little better in one respect, and a great deal worse in another." It bears to be taken before a person of the name of Pocklington, who (though it be not otherwise proved) was admitted to have been a baron of Exchequer in Ireland at the time. It is signed by Hovenden, whose signature bears to be attested by a notary public. All this is respectable enough. But it is said by the pursuers that the paper on which the body of the affidavit is written, had previously been covered with some other writing; that it was this original writing which was

sworn to before Baron Pocklington; and that that original has been removed chemically, and the existing affidavit inserted in its place above the signature. I take it, that his Lordship is no greater admirer of chemical evidence than I am. "Hovenden's affidavit is chiefly occupied by an account of a translation made by him of an alleged charter; and all that he says about the pedigree is, in the following introductory sentence, 'that he is intimately acquainted with the reverend minister, John Alexander, grandson and only male representative of John Alexander of Gartmore, the fourth son of William, first Earl of Stirling in Scotland; which said John Alexander was formerly of Antrim.' This is liable to the same observation as the last document. It merely contains the general assertion of the deponent, who, no doubt, describes the pedigree agreeably to the wishes of those who made him take the affidavit, but states no circumstance to warrant his opinion." Well, there was an affidavit of Hovenden's in the original service; there was an affidavit referring to a charter as the note proves; it bore to be dated in 1723; it was not established to the satisfaction of the Ordinary, but it was far more worthy of credit than another one, because it bore the attestation of Pocklington and Meredith; but yet it was liable to the suspicions of Fyfe and Gregory, and whether they examined it together I cannot tell, but they agree it was dated in 1723, and bears reference to a charter. Do not suppose that I maintain that this would set up the charter in a civil right; but how valuable is that little point that I have got! It is Hovenden's affidavit that Lord Cockburn referred to. It is his affidavit that Lockhart knew was substituted. Tyrrell also spoke of it; therefore there was evidence, extrinsic of the document itself, of the existence of a charter in 1723. No one had attached the least suspicion to the ink of this copy; and yet, under all these circumstances, the Crown demands a verdict of forgery, and of guilty forgery, not as an abstract question, but as an absolute and plain forgery, by deductions of history, by long examinations, by discussions in law; upon these they ask you to hold that this instrument is a plain forgery, done deliberately and purposely to set up a title to those possessions.

I have almost concluded what I have to say on the subject of this charter. I will return to it briefly in the conclusion of what I have to say to you. Be pleased, then, to bear in mind, that this charter was spoken to by Lockhart,—it was first seen by him in May 1829. He had received a letter from Ireland

on the 1st April, 1829, from Banks. He got the charter from the prisoner in 1829. The letter from Banks is not in evidence. I am not going to say what was in that letter. It was dated Carlow, 10th April, 1829, bearing the post mark. It was produced; the crown might have consented, if so advised, to the reading of that letter. They did not consent to this; it is closed and shut up by the law from your eyes; but it was in consequence of that letter that Mr Lockhart went to Netherton House, where he got the charter, and in company with Mr Corrie, he proceeded to London, and under the authority of the prisoner, where did Mr Lockhart and Mr Corrie go with the forged charter? When a thief steals from a dwelling-house, does he run to the police-office? When a forger is armed with his false instrument, does he take immediate refuge in the arms, the gentle arms, of the public prosecutor? Mr Lockhart had no suspicion, Mr Corrie had no suspicion; they were not conspirators. Mr Lockhart, a skilled man in charters,—but not so skilled, undoubtedly, as Mr Thomson, or Mr M'Kenzie, — had no suspicion when he saw those enigmatical words upon it which have been so much spoken of. They go to the Lord Advocate for Scotland, "fine bold-faced villains as you see them," with this Pierre at the head of the conspiracy, and they present this forged instrument to the Lord Advocate. Mr Lockhart knew that there was a person of the name of Hovenden, who certified it in 1723. Corrie could not judge of it, — he is not skilled in matters of that kind. Notice of it comes from Banks, who was last seen in the crown office, Edinburgh. He might have been a witness for the crown, and might have explained much of this case. We might have brought the man we quarrelled with, to be sure,— we did not prove the quarrel, but we proved the cessation of intercourse between him and the prisoner in 1834, not a very usual thing on the part of a defender, in such circumstances, even in a civil case; but the crown, who has no interest but to bring out every thing, produces no Banks, and will not allow you to read the letter by which the original charter was communicated to Mr Lockhart. Had that letter told against the prisoner, cautiously as the prosecution has been conducted, I doubt very much if they would have abstained from exhibiting it; but so it is, that there terminates for the present the history of this document, which remained from that period downwards as the groundwork of the action of proving the tenor, put into the hands of the public prosecutor to attest, and remained

from that unchallenged as a forgery, till the present proceedings were instituted.

Now, the action of the reduction of the service then went on. Le Normand has not yet appeared on the field. It was not from her repository of forgeries that the crown alleges the charter came from. She was no accomplice to the forgery of the charter. Banks wrote something, Lockhart did something in consequence of what was in that letter, and that something was to go to Netherton House, where he got the charter. Banks has nothing to do with the subsequent proceedings of 1838. Lockhart is not accused of having any thing to do with any of the forgeries. He and Corrie go to London, and there the matter drops. The reduction of the service goes on, and in that service you see what is challenged as forged, — several of these certificates, and among others, the non-produced affidavit of Elizabeth Pountney. The service is set aside, because the links of the chain of pedigree are not sufficiently proved. Lord Cockburn issued the note in December, which I read to you, and in that state of the matter we come to the second charge of the indictment.

The second charge relates to the French documents, and the last charge also relates to a French document, in all ten in number. Not one of these documents was ever seen in the prisoner's possession, and not one witness has sworn that any one of them resembles his hand-writing. The place stated in the indictment where the forgery was committed is Paris, and the time between December, 1836, and July, 1837. You are then to consider whether there has been legal evidence of the forgeries upon the map. Gentlemen, the map itself is not alleged to be forged; it is described in the indictment as an ancient map, and the date on the face of it is 1703. The date is not alleged to be false. The documents written or pasted upon the map are various. They are all before you, and I am not going to trouble you with reading them. The paper of the map is not said not to be genuine. It bears on it Mallet's account of the charter of 1706, St Estienne's attestation of 1707. Who Mallet is, and who St Estienne is, at the distance of one hundred and thirty years, no man can tell, and therefore I do not accuse the Crown of any impropriety in not having evidence touching these persons. The next writing is that of Flechier, dated at Nismes, 1707. Flechier's hand-writing, as well as his character, are well known. He did not die, as the Crown has proved, until 1711: therefore

Flechier was alive in 1707, and might, so far as he is concerned, have written the note. Then we have John of Antrim's letter of August, 1707, mentioning Hovenden and the charter, and to that we have attached Fenelon's attestation of October, 1707. Fenelon did not die until 1715; therefore he was alive in 1707, and might have written that document. Then we have the inscription on the tombstone, and the attestation by Gordon in October, 1723. We have a note after this inscription, and we have a note alluding to the charter in the hand-writing of Louis XV. without date. Then the last document charged as a forgery is the anonymous note of 10th July, 1837. These are all said to be forged; but there is also written on the instrument an attestation by Villenave, of the hand-writing of Flechier, dated 1837; and there is the attestation bearing to be in the hand-writing of Daunou, of the subscription of Fenelon, also Villenave's and Daunou's attestation are not challenged as forged; whether they be true certificates or subscriptions is another matter, but they are not challenged as forged. Now, what is the case of the Crown upon the map? It rests, I think, upon the appointment of De L' Isle alone. De L' Isle was not appointed, we are told, to be first geographer till 1718, and he did not take the title till 1718; it necessarily follows that the paper on which the map itself was written was not in existence till 1718, and therefore the writing in 1707 upon the map was forged. I admit that De L' Isle did not publish that map till 1718; that there are forgeries upon the map. Well, then, the question is one of evidence, and I say of contradictory evidence. Do not let me be misunderstood. If you assume that the map was not in existence till 1718, then, of course, the writings prior to 1718 could not be on that map; but I say there is no real, conclusive, and irrefragable evidence, that that map did not exist till 1718. There are strong reasons to conclude that it did not exist till then; but there is a mighty difference between strong reasons for a fact, which may be affected by an accumulation of other reasons, and which strong reasons may be overset by stronger reasons if they exist. I illustrate my meaning thus. Suppose the water mark on the paper is 1808 — suppose it bears a writing of 1806, I think that writing, on its production, would not be genuine unless it could be proved that for some extraordinary device that particular piece of paper was manufactured of a false date. The paper there would speak the truth for itself — the paper here tells no tale either true or false: you are therefore taken out

of the instrument, in order to be satisfied that there is an error in the date. The map is dated more than a hundred and thirty years ago; it is published in a foreign country; and without giving notice in the indictment as to the date of the map, they produce the appointment of De L' Isle in 1718; they produce an excerpt authenticated according to the law of France, as they proved from the register, certified, be pleased to bear in mind, by Daunou, the very person whose name is upon the certificate in the map itself. I think it proves that the appointment of De L' Isle was registered in 1718. Have they produced a search to prove that there was no previous appointment, and that this was the first commission? The commission, therefore, is not conclusive; it is a fact standing in opposition to other facts.

Mr Innes. — It is right to mention, that when we were about to tender other evidence which would have fully established the fact, it was stated on the other side, that they were satisfied that this was completely established.

Mr Robertson.—Most undoubtedly not. Mr Anderson stated the objection that it was not competent till they proved the law of France. He stated the objection, and the Court was about to dispose of it, when the witness was called and proved the fact.

Mr Innes.—I then misunderstood my learned friend's remark at the time; but we were prepared with evidence from books to establish the point.

Mr Robertson.—I cannot tell as to books. I cannot speak for myself, I watched the question carefully. They have not proved that they made a search as to any previous appointment. They have not proved to me that there was no prior appointment of De L' Isle's, and you cannot believe that they have any such evidence. It is my point, and I stand by it. They have not brought the best evidence on that on which the whole case stands. It stands upon that alone; and even if they had brought their books to prove no prior appointment, the evidence might have been valueless. Do not suppose that I am done with him yet; they have not put their foot upon the right ground. Without De L' Isle's appointment in 1718, and not till then, beyond the shadow of a doubt, (which is not proved by the instrument,) without that being established beyond a doubt, it comes after all to be a case of contradictory evidence. Contradictory evidence in a criminal trial! I am not arguing as to who had the best right to the lands in Canada; there are disputes enough about

that elsewhere, without introducing it into this discussion. I am not molesting Gartmore, Tillicoultry, and Tulliebodie; I am resisting a charge of forgery, and if the Crown have omitted what would turn the scale but by the tithe of a hair, that is enough. They are bound to give you the best evidence; but to rest on De L' Isle in so far as the appearance of the instrument is concerned, is entirely out of the question. You must hear what I have to say on the other side in regard to this map. I am not foreclosed. It is possible that these writings may have been there, and it is also possible that De L'Isle was appointed prior to 1718. I would illustrate this in another way. We had a trial which lasted several days about the question of a date, not of 1702, but of 1802. The question was, whether an old lady died in 1802. One party produced her marriage lines, and it was said that she died before their date; another produced her husband's discharge as a soldier, of the same date, and it was said that she died after that. Some of the registers were conclusive of the fact the other way; and it came to be a question of contradictory evidence, and the result was, we had to weigh which preponderated. But in the Criminal Court, although you must weigh in the sequel what preponderates, you must look at what is fairly, and fully, and exclusively brought out. They do not content themselves with De L'Isle alone; they attack parts of the instrument; they attack the letters of John Alexander and of Mallet, more particularly with respect to the ink. Teulet is a most respectable witness no doubt, and not the less free from suspicion that he has not got his additional one thousand francs. He says that the ink is a composition for the imitation of old writing, china ink, yellow, and red. Jacobs concurs of course. Mr Lizars thinks the ink is sepia and umber. I fancy that china ink, yellow, and red, is a different composition from sepia and umber. I dare say you may have got chemists to prove that they were the same things for aught I know. They confine the experiments of the chemists to the paper; they confine the composition of the ink to the two French gentlemen and Mr Lizars, who are not chemists; they differ, and this is a circumstance to set aside those two parts of the evidence. Then they tear off the inscription from the map, and find something very marvellous below it, and it was thought to be very like the writing of John Alexander. Mr Lizars goes to examine it, and he tells you when he comes back that he does not think it at all resembles the handwriting in the letter signed John Alexander. Mr

Lizars tells you that he examined the writings carefully and that they appear to him to be natural hands, — that he first thought the instrument to be genuine, and he attached no suspicion to the instrument at all, until he was assured that De L' Isle was not appointed first geographer to the king till 1718. Mr Gavin examined the writings along with him. He has not been called by the crown, and therefore must be held to have concurred with him; probably he might have differed with him about the plate. All kinds of men differ, even lawyers, except plain common sense men, who generally agree. But then, this inscription was written on a map of Canada; and there were three maps of Canada bought at a frank and a-half a piece, out of the shop of the man of the Quai. How rapidly some men jump at conclusions. Gentlemen, it is not written on a map of Canada,—it bears internal evidence that it is not, — it contains Canada *cum multis aliis locis*. Canada is but a very little bit of it, and a part of the title is torn away; the words that I have read shew that this map contained many other places. North America is a little bit of it, and a map of Canada it is not. This is a most suspicious thing,—this is like one that Leguix sold. But here the Public Prosecutor breaks down, for it is not a map of Canada, and it is not a map of De L' Isle; therefore it is not got to be connected with this case. How they would have jumped if the ink in which the letter below it is written resembled the ink of the letters of Mallet and Alexander! But the ink is different, and instead of doing damage to the map, it supports it.

Is there any thing else they might have done? Could they not have proved the case farther, by the production of other evidence of handwriting? The best evidence as to the handwriting of a living man is to adduce the man himself. If the man be dead, the next best evidence is to bring those who knew the handwriting. Louis XV. Fenelon, and Flechier, are names famous in history. They appear *ex facie* to have written on this map. It may be strange, but look at the map for a moment; you see the handwriting of Flechier, a very marked one, when contrasted with that of Louis XV. which is a plain current hand. They have produced no specimens of the handwriting of Louis, Fenelon, and Flechier. They say that Louis' handwriting was rare. We called one gentleman, who brought specimens out of the repositories of a most regular collection in France. The learned Judge said he put no weight on the statements of Voltaire, and I have nothing to say on that part of the matter. They have brought nothing to impeach the

testimony of that gentleman, — they have brought nothing to impeach the handwriting of Louis, Flechier, and Fenelon. Oh! but the forgery was well executed, — it is skilfully done, and we are deceived. Gentlemen, that will explain any thing. Assume that there is a forgery, and there is an end of the argument. But the question is, have they proved it to be a forgery? Have they asked a single witness, from the beginning to the end of the trial, a question as to their belief of the handwriting of Louis, Fenelon, and Flechier? They all pin their faith upon the misprint on the back of the map, — their theory is, that the map was not published till 1718. Assume that, and there is an end of the case. But if you cannot assume that as the beginning and end of it, why not go to the other parts of it? They do go. They try the ink on the writing of Mallet and Alexander. The ink theory fails them. They try the ink on the tombstone, and here the ink theory fails them too. They ask no witness about the handwriting of Fenelon and Flechier, amongst all their men of skill. This is a blank they were bound to supply. In a case of contradictory evidence, they were the more bound to supply the blank, but they have not. We stand unchallenged in regard to these handwritings, and we go a step farther. We produce specimens of the handwriting of Flechier, unsuspected specimens, brought by one of our witnesses from France. He is said to be a young gentleman. I did not ask his age with the view of putting him up as a man of skill. I wanted to shew that he was a person of respectability who brought these specimens, and I did shew this by their own witness. I supply the blank which the crown should have filled up. I offer you specimens of the genuine handwriting of Flechier; and they tell me with a sneer, Ay, you have done the thing very like, it is a clever forgery. There is conclusive evidence for you! Every thing that I do is wrong. To the jaundiced eye every thing is yellow; but to the clear eye of truth, every thing is clear as day. Have they set down this map? Have they scattered it on a piece of evidence to the four winds of heaven? They have not, — they have not done what was incumbent on them to do, either as to the map or the charter. Take Flechier's letters, — look at them, — you are just as good judges as any engraver that ever scratched on copper. Well, is the prisoner punished on a charge of forgery? Not a bit of him, if that were the issue, but that is a very small part of the issue. The issue is, did he forge, or knowingly utter the forgery? If the crown has not set its foot on ground that is untouchable, both

as to the fact of the forgery of the charter, and the fact of the forgery of the map, we may go no farther. Contradictory evidence in a criminal trial on the main fact, is worth nothing. I have shewn, that there is strong contradictory evidence, and it is contradictory evidence on which no man can speak. The grave has closed over all the persons named in these transactions; the veil is not rent asunder by the evidence they have brought. It is suspicious — it is inexplicable. What is the effect of it? I say, that in a criminal prosecution such as this, the Public Prosecutor by his evidence cannot touch a hair of the prisoner's head. He is protected by the want of proof of the main fact alone. You dare not, upon your oaths, convict, unless the fact is proved beyond the possibility of a doubt, and you dare not proceed a step farther in the inquiry.

But, gentlemen, we have more forgery, we have the forgery of the English documents. The learned Judge who presides asked the Solicitor-General if he stood on the charge of forgery relative to the writing on the parchment cover, "Some of my wife's family papers." He answered that he did, to my surprise. I will venture to say that no case was ever disclosed, where a demand of a verdict of forgery was made upon such evidence. What is the ground of forgery of the words, "Some of my wife's family papers?" Because within the packet there was a black edged letter giving an account of the thief. Will this do in a Court of Justice in a case of forgery? I say it is proved to be genuine; to be so genuine, that if we were in a civil process it would be held as evidence in support of what it was to prove. How can you prove the handwriting of a dead man, but by those who knew his handwriting? This poor gentleman, whose poverty has been the greatest accusation against him, has not the means to combat with the Crown, — we have not the power to combat with that mighty battalion which was brought against us. We brought all the troops in our power—we brought one sturdy English gentleman, worthier, in my eye, than many French porters; and we take his evidence, and we are bound to take his evidence as to the handwriting of the prisoner's father. A verdict of forgery is demanded on that paper. The other papers in the packet are said to be all forged too; and one is said to be forged, because we prove it to be genuine; and the others are said to be forged, because they know nothing about them at all. These are the English documents, and I bid them good bye. If you bring a verdict of forgery upon the English documents, all that I have to say is, that you must have had a communi-

cation from Mademoiselle Le Normand in the black art. I dismiss this part of the case, and now for the guilty knowledge.

Have I shaken the case in the least on the forgery? Is it wavering? Has a breath ruffled its leaves? I think it has. But if all I have said hitherto were to go for nothing,—to be buried in the tomb of John Alexander,—I still say that there remains behind a case as invulnerable as walls of adamant. Guilty knowledge! Upon what? Guilty knowledge, or connection of the forging of the charter of 1639, that never raised a suspicion in the mind of the experienced Mr Lockhart, a charter which was taken directly to the Public Prosecutor in the company of the accused, tendered to him, and no step taken. Did Sir William Rae betray his duty? or did he not believe the instrument to be genuine? And is the prisoner a better judge of such an instrument than Sir William Rae? It is ridiculous to talk of guilty knowledge in regard to this charter. It remained for ten years untouched, unchallenged,—it was fingered by counsel after counsel; and it required more knowledge and more learning than all who had seen it, during so long a period, to find out that it was a forgery. And if it is to be supposed that it is a forged document, and deceived these men, might it not deceive that man at the bar? But then we raised money upon the charter. A pretty transaction this! These honest creditors were taken in by this gentleman, so low in his circumstances that he could not pay his butcher's bill. He had taken in the knowing ones of London! He had swindled those who were willing, on speculation, to take bonds for L.50,000, and to fork out L.13,000 on old pictures and otherwise! Honest dealers in old pictures of great price! And this adept in Scotch conveyancing — this learned pundit in black letter — this skilful man in the history of France, and in all other matters,—swindles these Jews and deceives the Lord Advocate, by putting knowingly into his hands a forged instrument, for the uttering of which, at that time, he must, if I am not mistaken, have been capitally punished!

But then we have had dealings with Mademoiselle Le Normand. This, gentlemen, is a crown prosecution. The forgeries are alleged to have been committed in the house of Mademoiselle Le Normand. Where is this lady? By their own theory, she is an accomplice in the forgery, if not the actual perpetrator of the forgery. Why is she not called? Was it for me to bring her? This may be common enough

in a civil case, but certainly it is mighty rare in a criminal prosecution. I am not bound to bring evidence — I am setting up no adverse right. Were you not entitled to see this French sorceress? Was not the Crown bound to bring this woman when the forgery was charged to have been done in her house? Where is Triboul, the student of medicine, that they put questions about? Why is he not here? I have not my 1000 francs a-month to pay all these people. Where is Villenave and Daunou? Where again and again and again is Mademoiselle Le Normand, and Triboul, and all the servants? And where is one lady that we saw in the list here, "Amedee Melanie Fontaine, lately residing in No. 2, Rue de Tournon, Paris, and now or lately residing in India Street, Edinburgh," L' hotel de M. Le Normand. Where is she? She is either in Scotland or not. My learned friends will admit that she was in Scotland, that she was in the other room, and why is she not brought? Is it a mistake? I should have thought she would have known more than the porter that sat at the gate. She is kept back by the Crown. She is not excluded by my objection. She is kept back by the Crown, who objects to the reading of Banks' letters to Mr Lockhart, and of Banks' letters, ten or twenty of them, to the prisoner? Is this fair dealing with you, gentlemen? Are you to be called on to blast this man, and all these witnesses kept back, and purposely kept back? They "intended to call her," I hear it whispered. Why then did they not call her? She was brought here, and she ought not to have been brought here without being well paid. She is well paid, and she returns to Paris unexamined. I shall not inquire how she may have conducted herself since she came to Scotland.

Well, what next is suspicious? The prisoner granted an obligation to Mademoiselle Le Normand for I do not know how many 1000 francs. Poor foolish man! He who would grant an obligation for L.50,000, receiving L.13,000, would grant an obligation for many thousand francs receiving nothing. Is he a man of ability it is asked? This was an unusual question to ask, and the answer returned by Mr Tyrrell is, Certainly he is a man of great ability. A man of ability—a believer in the black art in the nineteenth century! It was not a jest that he thought Le Normand told his fortune. He believed in her predictions. The Crown does not impeach the credibility of their own witness. You may believe he has ability, but the extent of his gullibility is almost beyond human belief. Cut the cards for a future earldom! In his first and

second declarations, he is asked if he ever purchased maps from Leguix on the Quai D' Orsay? He says no, I never heard of him. The first time Leguix is ever mentioned is by the Lord Advocate, in his judicial examination. The prisoner never heard of him before. Leguix is brought, and confronted with the prisoner; and Leguix says, not only that he did not know him, but that this prisoner was not the man who had purchased the maps from him. "He did not drive a hard bargain," he is asked, "Non, Monsieur." There he stopped. I took the liberty of asking him in bad French, what was the price paid for this precious map of Canada, "Un franc, et demi." And he bought some more maps; and the bit that was taken off the back of the map of Canada is one of them—and it is not a map of Canada! The identification of the map by Leguix has turned out a downright failure to the Crown, as bad as the result of the chemical investigation. Beaubis, the porter, upon my word, is not worth his money. Eight months L' Anglois came every night to Mademoiselle Le Normand. Good God, gentlemen, why not bring the people with whom he was sitting? Why not bring the inmates? For what purpose select the porter only to prove what is of no value, for the prisoner admitted that he was in Paris, and admitted that he had seen Le Normand, and had granted the bond; and what a blank is this in a criminal prosecution of such vast extent—the one thing needful is altogether neglected. The guilty knowledge is the one thing, the only point, the punishing point,—it is a blank, a total blank. But then we correspond with Le Normand, and write about the man of the Quai—to be sure we did. The Crown had been making searches, and this correspondence is altogether subsequent to the judicial examination of the prisoner by the Lord Advocate in the civil case. Had there been letters about the man on the Quai before this? No; we had no other agent there, and we had very little means to get up evidence, and where could be the harm of corresponding with a friend, with a view to getting up evidence for the defence?

What more, gentlemen, is in the case? I am told that we had asked time to make more discoveries; that the prisoner put in note after note to obtain time to make these discoveries. Gentlemen, this is a very odd thing. With a gravity which my learned friend had the merit of maintaining, he says, as a proof of the guilty knowledge, that the prisoner put in three notes with the name of Ephraim Lockhart, the name of his agent, the name of an esteemed friend and coadjutor, craving

more time to make investigation, dated in May, June, and December, 1837, during the time he was in Paris forging the instrument. Why his agents in Edinburgh were asking time to make investigation without any communication from him, and yet this craving of time is gravely brought forward as a proof of guilty knowledge; all these pleadings are not worth a farthing, and have nothing whatever to do with the case.

Gentlemen, I feel so confident of the verdict, that I shall trouble you with but one or two topics more. The character of the accused, is that nothing in a criminal trial like this? Is it nothing to have the reputation of a kind husband, an affectionate parent, an esteemed friend, an honest man? Gentlemen, in a case of doubt this is every thing. You have heard his character described by his two most confidential agents at the beginning and end of his career, Mr Corrie and Mr Lockhart? You have heard it in the more dignified language of Mr Hardinge, who had known him in the days of the splendour of his father. You have heard it in what was the more homely, but not the less affecting language of my friend Mr Roger Aytoun. You have seen it in a moral spectacle unexampled in a court of justice. You have seen it in the testimony of the gallant colonel (D' Aguilar) near me, whom I should be proud to call my friend. With the gallantry of a British officer, with the pride and generosity of a British gentleman, he, not like the cold world, remembered the days of his boyhood, recollected all that had passed between the prisoner and himself in early life; he saw the rising friendship of their children, and he rushed to his defence; as a bark tossing amidst the breakers, he rushed to support it, and he will bear it at last to a haven of safety. The contemplation of that spectacle was electrical to me, and to you, and to all of us; and the embrace that these two men shall have when the prisoner quits the bar, is one that I envy that gallant officer more than I envy all the treasures of wealth and splendour, and more even than the wreath of laurel that so honourably adorns his brow. Do not think, gentlemen, that character is a light matter. I look back on the whole of his days, and I look at the prisoner as an unfortunate man, whether I contemplate the past or the future. When I look to the past, I see nothing but days of anxiety and care, nights of golden dreams dissipated with the morning sun, his rising family who had been taught to look to nobility and to wealth as their birthright, seeing nothing but disasters before them, calling aloud to the parent to give them bread, when he has

nothing to give them but a stone. When I look forward to the future, I see nothing still but a glimmering of hope that the prisoner will pass the balance of his days in pursuits more useful—in the attainment of objects more solid. Let the visionary coronet of vain ambition be plucked from his bewildered brow,—let the visionary prospects of vast possession and boundless wealth vanish into empty air; but leave, oh leave him that better nobility, that more valuable title which consists in an honest name and in an upright character. Gentlemen, I am one of those whose party prejudices, and whose principles all combine in the admiration of hereditary rank and high title,—in the admiration of those whose names have been brought down to these more modern times in the annals of fame and chivalrous actions, and who venerate those new names who, by their piety, their patriotism, or their learning, have raised themselves to be enrolled in the lists of those who sit in the house where meet the dignified nobles of the land; but without truth, character, and honour, all these things are worth nothing. Without such concomitants, to my eye the glitter of the coronet has no splendour—to my ear the rustling of the silken robe has no music. I trample on the tarnished ermine with disdain. Do not add to the pangs of this man more than he deserves. Leave him in possession of his good character, without which the crown and the sceptre are but a bauble. Do not imbitter his cup with the punishment of crime, where there is no guilt; for, on my conscience, I believe him to have been the dupe of the designing, and the prey of the worthless.

Mr Robertson concluded at half-past six P.M.

Lord Meadowbank.—Gentlemen, you have heard speeches of great ability by the counsel on either side, and the last is certainly calculated to make a great impression on your minds. I shall endeavour to go over the case plainly, and to bring the evidence back to your attention, without attempting more.

It has been most justly and properly stated by Mr Robertson, that we had nothing to do here with the rights of the proprietors of Gartmore, Tulliebodie, and Tillicoultry, or with any other party, or with the right of the prisoner to the title which he claims. The simple matter in your hands is, whether or not the charge of forgery, first of a peculiar document, and then of a great number of documents of an inferior description, is proved against the prisoner,—whether these documents were forged by him,—or whether he was aiding and abetting in the

forgery of them,—whether he uttered them, and uttered them knowing them to be forged, if he was not the forger.

The charges may be stated in a very few words. There is, first, the allegation made by the Public Prosecutor of the prisoner's having conceived the felonious intention of having himself falsely received as the Earl of Stirling; and in pursuance of his designs to have himself so received, and to obtain a right to large landed estates, both here and in other dominions of the crown, that he forged, or was art and part in the forgery of those documents, or of uttering them, knowing them to be forged; that he forged, or was art and part in the forgery of an instrument bearing to be an excerpt from an ancient charter, granted in favour of William first Earl of Stirling, by Charles I. in the year 1639; that he had forged on that document, or was accessory to the forgery, a signature which he meant to represent as the name of Thomas Conyers. The indictment then proceeds to state, that a reduction of services had been brought, and that Lord Cockburn had issued a note on the 10th December, 1836, pointing out several links in the descent of the prisoner from his supposed ancestor, which were not sufficiently corroborated, and the truth of the essence of which was questioned by his Lordship; that this note having been put into process on the 10th December, the prisoner, between and the month of October or November following, had been guilty of forgery, or had been accessory to the forging of several documents. One set of these documents are those so often mentioned, bearing to be writings on the back of a map of Canada; the map itself is not alleged to be a forgery; on the contrary, it is simply with reference to the papers on the back of it, that the allegation of forgery is made; and that this was for the purpose of supplying the links wanted; and that for the purpose of satisfying the Court that these links were sufficiently made up, he farther was accessory to the forgery, or, at all events, to the issuing, knowing them to be forged, of certain English documents, enclosed in a sealed packet, accompanied by a note bearing to be from a person of the name of Mrs Innes Smyth; then there is the allegation that he was guilty of the forgery of a letter, corresponding to a letter said to be addressed to Madame Le Normand, and said to have been enclosed in the same packet which contained the map of Canada, and left at her *Cabinet* on the 11th July, 1837.

Now, you must be aware, that in all criminal cases whatsoever connected with the crime of forgery, where a charge of forgery is brought, the first question of all is, to determine whether the documents are or are not genuine. In trying this

point, we in the meantime put the prisoner out of the question, and the question which first of all ought to occupy your minds is, are these documents genuine or not? In determining this point, I have a few general observations to make here. The crime of forgery, where the instrument has not been seen in the act of fabrication, can only be proved by a detail of facts and circumstances. It is only by going through the documents minutely, examining the writings, examining the papers, examining the formation of the letters and the words that are in it, and all that is intrinsic in the document itself, and that you can gather from it, that you can come to a conclusion; and not only so, but there are a great many other circumstances that must also be taken into account in the consideration of this part of the question. You are to look to what the nature of the instrument purports to be, — whether there is nothing peculiar to the character of such instruments, — the manner in which they are framed, — and the place in which they are recorded. All these things it is the duty of a Jury to consider, — in such a question minutely and seriously consider. They are not to be led away by dividing all these circumstances, as was done with great ingenuity, I must say, by the prisoner's counsel, Mr Robertson. It will not do to take one of these circumstances, and then another, and ask if this is enough, or is that enough, to prove the forgery of the documents, and so go through and dissect them individually; but you are to come to the consideration of them all together; and you are to ask yourselves whether you ever saw in any one instrument so great a number of circumstances, all of them combined, which could not have existed in a genuine instrument, and which are totally incompatible with a genuine instrument. You are to take the whole of the circumstances together, and judge of them dispassionately, in order to arrive at a just conclusion. You are to judge whether there is such a combination of circumstances occurring in one case, which, if any of them were occurring separately, would be of comparatively little moment, but would require almost the aid of a miracle to bring them together; and finding this to be the case, you are to consider what effect is to be given to that combination.

Gentlemen, a good deal was said at the commencement of the trial in regard to the appearance of the paper on which the excerpt is written. Not much is to be taken from that, with this exception, that where men have their minds and attention devoted to any one particular subject, the impres-

sion they take at first sight is much to be depended upon. There are some things that can not be proved by evidence, and yet in regard to which you may at once be satisfied. Take your own letter, for instance, which you may have forgot you wrote, and you cannot tell the grounds that you now recognize it to be your own handwriting. You are satisfied that it is your handwriting, although you cannot tell the grounds of your recognition. Looking to this paper before you, you have here two of the most experienced gentlemen in old writings to be found either in this empire, or anywhere else, Mr Thomas Thomson and Mr M'Donald, the former of whom was, you recollect, consulted by the prisoner. You have these two gentlemen telling you without doubt or difficulty, that on looking at that document they did not believe it to be genuine. On the other hand, you have had experiments performed on the documents, in order to test the cause of the colour of the paper, and to ascertain if there was in it any extraneous substances. If chemists differ in their conclusions, it is safer for you to throw out of view their evidence altogether; but it does not follow that it taints the evidence for the crown. The crown has no other object than to bring the whole case, and the best case before the Jury,—the crown believing, and thinking, and knowing, and having reason at least to believe, that an experiment might be made which might have the effect of bringing the question more distinctly to your view. Experiments were made on this document, and the chemists differed in opinion. Now, an experiment may fail, and it may succeed. When all the parties are agreed, you are to take their evidence; but if they do not agree, you are to throw the evidence aside. It may be as well that I should recall to your recollection Mr Thomson's evidence, because it seems to me to have been given in distinct and positive terms. (His Lordship then read the evidence of Mr Thomson, bearing upon the colour of the ink and paper, and the peculiar and unusual handwriting of the excerpt.)

Gentlemen, I leave this part of the case, stating this much to you, that instead of there being any thing in favour of the document being genuine, from the complexion of the ink, paper, writing, and general effect produced, that the witness stated to you that his impression was against the genuineness of the document.

In looking to the composition of the charter, a good deal was said by the counsel for the prisoner, as to its being but an

excerpt from a charter; and that you are not to test it by the same rules that you would test a complete charter. This may be quite true to a certain extent; but then, on the other hand, if in a paper purporting to be an excerpt of a document of a particular description, you find things occurring in such numbers, not only apparent blunders that would have made the instrument itself unintelligible, but portions of it so totally inconsistent with the nature of a charter, from which it is purported to be excerpted; and above all, if you find things included in that document or affixed to it which could not have been in a charter of such a description, then you are called on to exercise your own intelligence, and ask yourselves what is the effect it produces on your minds, coupled with all the circumstances relative to the productions. There are a great many, as it was termed, inaccuracies; but which, I say, are utter inconsistencies in that document, with the style of a charter in this country, and which were particularly pointed out by Mr M'Kenzie. I am not speaking now as to whether the prisoner at the bar might in good faith have been under the impression that it was a genuine document; but the question is, whether there are things in that document, which, to persons of intelligence, must prove that it could not have been copied from a genuine document. There are things that are quite as well known in regard to charters, as in regard to the form of a criminal indictment. Mr M'Kenzie told you, that in charters themselves the dates of particular resignations are invariably given; and that in this document there are no dates applied to the resignation at all. He told you that in a charter that goes through the forms of a charter in Scotland, under the intelligent eye of the king's officers in the Exchequer, there is no chance or possibility of such blunders occurring as have occurred here; and that there is a resignation said to be by the grandson of William Earl of Stirling, which is totally inconsistent with the forms of resignations in genuine charters. Besides, this document gives lands and provinces in New England; and I ask how it is possible that a signature that passed the Barons of Exchequer could have conveyed away a province which never belonged to Scotland? This is utterly inconsistent with all notions of an instrument of such a description.

But there are other things in the internal parts of the charter to be noticed. There is one part of it which, the very moment I looked at it, seemed to me conclusive, which is this, that while this excerpt bears to convey to the Earl of Stirling the title and dignity of the earldom, it assumes

and takes for granted that that was necessary to be done, which was not necessary to be done. He resigns the Earldom of Stirling, and the king conveys it back with precedency from the date of the original grant of the honours. By so doing, he did not lose his precedency. Such a stipulation is not to be found in genuine charters. Mr Thomson told you, that he never saw such a thing, and that the precedency of honours, as from the date of the original grant, struck him as singular, it being quite unnecessary. Then in this charter the king is made to address a commoner "*consanguineus noster.*" This occurs twice over. It is the invariable practice of the crown in all public instruments to address the peers of the realm as "*consanguineus noster*; but here a commoner is so addressed, and Mr Thomson told you that he had never seen such a thing. Then we come to an extraordinary circumstance which occurs in the document, and that is the testing clause. This clause bears, that it was executed by the king at Whytehall before a certain number of witnesses, on the 7th December, 1639. One of these witnesses is John, Archbishop Spottiswood, "our chancellor." It was proved to you by the production of the life of Archbishop Spottiswood, which was not objected to as legal evidence, that he died on the 26th November of that year, and his was no death that took place in a corner. It is a matter of notoriety that he died at Westminster, and that his remains were interred at Westminster, and his funeral attended with eight hundred torches; and the date of his death was also found on an inscription on his monument in Westminster Abbey. If there was nothing more to prove his death, this would prove it. An inscription on a monument is good evidence as to the date of the death of an individual. It has been so ruled by the judges of England. The fact of the death of Archbishop Spottiswood, before the date of this document, would, of itself, have excluded the possibility of its being received as genuine evidence. Besides, you have two documents that have been referred to taken from the privy seal of Scotland, in which it appears that the charge and keeping of the great seal was committed to the Marquis of Hamilton on the 13th November, 1639. I need not read these documents to you. Your attention has been directed to them already, and they will be laid before you. Even if the archbishop had not been in his grave at the date of this document, he could not have been a witness, because he had resigned the great seal, which was put in commission, and committed to the charge of the Marquis of Hamilton. Therefore, taking the charter as it stands with its multifarious

blunders, or with reference to what I have stated to you with respect to the testing clause, in which Archbishop Spottiswood's name is taken as a witness, I submit to you that it would not be safe to hold that there could be any doubt whatever as to the conclusion that it is a fabricated document.

Then there comes the addition of "*Per Signetum.*" To this I call your attention in a few words to remind you of the utter impossibility of this being appended to a completed charter, because, in passing the great seal, the authority of the signet is not recognized. The form of passing a charter may be stated in a few words. The party presents first his signature to the Exchequer. If it requires a sign manual, it obtains it; if it does not require it, there is a signet applied to it in the king's name, and it passes to the barons. Having fixed the sum to be paid, the composition and the reddendo, it comes to the comptroller's office, and is there registered, and there it must be registered. Then that signature, with the marking after registration, goes to the signet. The signet has no record, but requires that it should be itself protected against question for having issued that which it had no right to issue; and therefore, having no record to point at as evidence of the grounds on which it proceeded, the signature is retained at the signet. Having got possession of the signature, the keeper gives a precept or deed (this was the form in 1639, and for a century afterwards) to the keeper of the privy seal to issue his precept to the keeper of the great seal to expede the charter. At the privy seal that precept is recorded, and then a new precept issues which goes to the great seal, and the precept which went to the great seal, being under the privy seal, has all the authority to make the great seal move. Therefore, on that which purports to be a patent, the mark at the end could not be *per signetum*, but *per preceptum Signeti.* These things, therefore, putting aside all the blunders in the body of the charter, which could not have crept in by incautious or illiterate transcriptions, plainly and manifestly prove that it is not a genuine document. No man could have taken in to the testing clause the long designation of "John, by the mercy of God, Archbishop of St Andrews, Primate and Metropolitan of our kingdom of Scotland, our Chancellor," unless he had seen these words before him; and no one, unless he saw it appended to the charter, could have put down the words "gratis, per signetum" on an instrument of which he knew nothing. It is one of the greatest beauties in matters of this kind, that, in this country, registers and records have been

kept for centuries with a degree of regularity and precision altogether unknown in any other part of the empire. You have here the comptroller's register, the register of the privy seal, the register of the great seal, and the bundle of signatures, and one and all of these have been searched; and there is not a vestige either on the record, or on the index to the record—not the vestige of any instrument, purporting to be an instrument corresponding with this, is found to have existed. Now, in confirmation of all that I have stated, you have these two charters,—the one in favour of the city of Edinburgh, and the other in favour of Heriot's Hospital, of date four days after the date of this document. You find that these charters have gone through all the stages which I have detailed to you at length. They went through the Exchequer, through the comptroller's register, through the signet, through the privy seal, and last of all through the great seal, and then issues the charter with a regular testing clause at the end of it. It is material for you to keep in view that, in the first stages of a deed, there is never a full testing clause. It does not bear the names of the witnesses, it does not state them fully, or their designations; and it is only in the charter itself, when it has passed the great seal, when it comes to have authority in the courts of law, that it has this testing clause; and therefore it is, that this document, which has the full testing clause, could not have been copied from any early stage of the progress, either at the signet, or at the privy seal. I take leave of this part of the question by pointing out to you that there is no subscription of witnesses to the charter; there are merely the names of the persons who acted as witnesses to the king's subscription, but no actual writing of the individuals themselves appended. The great seal is appended to it, and it has thus all the authority that it can have.

You will observe that, at the beginning of the document, on the margin, there are the words "*Reg. Mag. Sig.*" Now, on that subject we have proof positive and conclusive. The witnesses who examined it have no doubt that it is coeval with the document, but one of the gentlemen said that he thought it was a little darker than the writing in the body of the document. You are not bound to take any evidence as to that, but from your own eyes; and you will judge from your own eyes whether you will have any difficulty in concurring with the opinion of those witnesses. If you do so, you have this additional fact, that, until 1807, such a designation of the registered instrument passing under the great seal did not

exist. There were various designations given to it; but there never was, either in or out of the Register Office, such a reference upon the margin of a charter till 1807.

Then there is reference made to the loss of a portion of the Records of Scotland during the civil war under the usurpation of Cromwell. It is a curious fact, that the reference to volume 57 is a reference to a volume from which there are twelve leaves cut out at the beginning; and it is another curious fact, that the book in which a charter of 1639 ought properly to be recorded, is not in volume 57, but in volume 56; but volume 56 is complete, and if there was a fabrication of this document, the party fabricating takes a volume, of which there are twelve leaves left out, and not a volume in which, according to its date, it ought to have been found. But what is more strange still, in one of these certificates to which I shall speak immediately, it was stated that the charter seen by Mallet was very long, extending to about fifty odd pages. Charters are all of the same size. Now all the leaves awanting in volume 57, and the indexes, tell you the documents that are amissing; and supposing that they had not told you any thing at all, can you believe, having found that there is no evidence of a charter having existed in these records in which it ought to have been found, that it could *per saltum* have been crammed into twelve pages, which is all that is awanting in the volume? In short, it does appear to me to be an extraordinary allegation; but, gentlemen, it is for you to consider, whether you have ground to come to the conclusion that this is a fair and genuine document. In my opinion, a document, liable to such insurmountable objections staring upon the face of it, cannot be genuine; but it is for you to consider, whether it would be safe for you to arrive at the conclusion that it is a genuine document. I have heard nothing said in support of its being genuine. It may be possible to roll off one objection, and roll off another; but, as I said, it is the union and combination, and the variety of coincidences, that render it morally and utterly impossible that this excerpt could have been taken from a genuine charter.

The next point to which I have to direct your attention is the alleged fabrication on the map of Canada, and here I will state the case to you as it has been brought before you in evidence, and afterwards consider the evidence stated in defence. The allegation of the Crown is, that on the 10th December, 1836, Lord Cockburn issued a note, in which he pointed out two defects in the descent of the prisoner. This was in an action of reduction and improbation raised by the Officers of State

in behalf of the Crown against the prisoner at the bar, " for reducing *inter alia* the brieves and retours of the said general service, and special service, and the precept of Chancery, and infeftment following thereon." It was denied, first by the Crown, that the Reverend John Alexander was the son of John Alexander of Antrim, who had died in 1712, or that he again was the son of John of Gartmore. His Lordship detailed in his note the grounds of his opinion; and it therefore became a matter of vital importance to the interests of the prisoner, that he should prove that John Alexander, the first of these Johns, had had a son, because it was proved that he had had a daughter who had been served as heiress to Gartmore, and this was utterly exclusive of the notion of his having had a son. Till this was produced at the Lord Ordinary's bar, it is stated, and not denied, that it had never been alleged that this gentleman had entered into a second marriage. His Lordship issued this long note which you heard read, pointing out every step that required to be supplied. Then there is produced in the month of December, on the table of the Court of Session, the map of Canada, that would establish beyond all question the truth of the allegation made by the prisoner in that process of reduction, but which they failed to substantiate as genuine when the process came to be advised by the judge. It is very manifest, and is really so manifest that it does not require to be mentioned, that while these documents on the back of the map bear the date of 1706 and 1707, the map itself did not exist till after 1718. I must say that on this part of the case it seems to me that there is little room for entertaining a difference of opinion, for no point of evidence that ever came before a Court or a Jury could be clearer. Observe what that proof is. You have, in the first place, a regular extract made from the proper record in France, of the appointment of De L' Isle to be first Geographer to the King. It is of the utmost importance to look at the terms of it, because in the very able address made in behalf of the prisoner, he stopped short at a word that completely extinguished his argument. The nomination of De L' Isle to be first Geographer to the King, bears to be the 24th August, 1718; the words of his patent are, " This day, the King being in Paris, having authentic proofs of the profound erudition of the S. Guillaume De L' Isle of the Royal Academy of Science, in the great number of geographical works which he has executed for his use, and which have been received with general approbation by the public, his Majesty, by the advice, &c. wishing to attach him more particularly to

his service, by a title of honour, which may procure him, at the same time, the means of continuing works of such usefulness, has declared and declares, wishes and enjoins, that the said Sieur De L' Isle be henceforward his first geographer." The word translated henceforward is "doresnavant" in the original. It is only henceforward, and from that time, that his pay begins. Now the map has been sworn to by two witnesses, one of them an engraver of maps, and the other one of the keepers of the Archives of France, who is himself, from what you see, cognizant with matters of this description. This gentleman tells you that, after the 24th of August, 1718, there never was a map of De L' Isle's published, thrown off, engraved, or printed, which did not bear on its face the title of Premier Geographe du Roi. But he told you, at the same time, that although they bore that title after that date, it was still necessary to retain the original date of the map, because the privilege of printing this map extended only to twenty years. He said he had examined multitudes of these maps, and had brought a number of them over with him. You will find that, whether the original date was 1703, if they were thrown off subsequent to the date of his being made first geographer to the king, the title and dignity which he then enjoyed was invariably applied. But where the plate was an old one, the word Geographer was taken out of it, and a new line introduced in a different form; and the witness said he had seen duplicates of the very same map, where he found the same thing, all down to 1718, without the title, and invariably subsequent to that date, they all had it. When you come to look at the map before you, you will see that, to make the line "Guillaume De L' Isle" correspond in length with the other, the word Geographe ought to have been after "De L' Isle;" but it is obliterated, and left out, not in the paper but on the copper, and there there is introduced "De L' Academie Royale des Sciences." Then there is a line obviously put in, "et Premier Geographe du Roy." If you believe this gentleman, or if you believe your own eyes, when you examine this volume of maps, and this document, you must be satisfied,—except you believe that you have heard a tissue of falsehoods from this respectable witness, and unless you believe that the maps which he brings before you were fabricated for a particular purpose,—that that instrument, lying before you, must have been manufactured after 1718. He could not, under the despotic government of France, have assumed the title unless he had a legal patent and right to that appointment—and he did not enjoy it till 1718. This

was spoken to by three witnesses, confirmed by the testimony of Mr Lizars, who is an engraver himself, all of them affirming the fact, and that upon it the words of the new title were engraved, and the other word was erased. It is, therefore, altogether impracticable, utterly inconsistent, to believe that this document existed sooner than 1718. It is for you, therefore, to consider this point, and to make up your minds about it. You have your notes, and you will see the credibility you are to give these witnesses; and taking all this into consideration, you will take common sense along with you, and see whether the evidence is perfect and entirely complete.

Now, gentlemen, I think it would be a great waste of your time to enter upon a minute consideration of these different documents; at the same time, they are well worthy of your consideration, and you will see when you come to look at them, the result you would have arrived at, supposing there had been no such conclusive evidence as we have had at all. I must tell you that Mr Robertson stated the law incorrectly when he said that you must have decisive, conclusive, and irrefragable proof on every one part of the case. I say that you must take all the facts and circumstances together; and it is your business as a Jury, to weigh these facts and circumstances, and see if they amount to that which comes to be moral proof of the fact. Looking at these documents, there are some parts of them so extraordinary, that it would not be right in me if I did not call your attention to them. Take the first document on this map, dated Lyons, 4th August, 1706. He says, "during my residence in Acadia in 1702, my curiosity was excited by what I was told of an ancient charter, which is preserved in the archives of that province; it is the charter of confirmation, of date 7th December, 1639," &c. Now, the gentleman who is supposed to write this note, describes this in 1702 as an ancient charter. According to the evidence itself, the charter was then only sixty years old; and I ask you whether you ever heard, or whether any mortal man ever heard, of "ancient" being applied to a document of sixty years old. Can you, by any construction or credulity, believe that such a thing could have taken place?" Then the note goes on to state "from this authentic document,—I am about to present some extracts, (translated into French, for the benefit of such as do not understand Latin,) in order that every person who opens this map of our American possessions, may form an idea of the vast extent of territory which was granted by the King of England to one of his subjects."

Now, observe that a great portion of all this territory is the property of France, and the only portion of it which belongs to England was Nova Scotia; and, in evidence of that, there are two statutes in 1634 or 1635, praying the king that he would not alienate the province of Nova Scotia. There is not a vestige in any other document on which the Crown of Scotland ever claimed any thing else. Then it says, "If the fate of war, or any other event, should replace New France and Acadia, under the dominion of the English, the family of Stirling would possess these two provinces as well as New England." It might give him Nova Scotia, but as to any thing else it was an absurdity. As far back as 1640, the whole of this was conveyed over to the French, and had remained, at the date of this note, two-thirds of a century in the possession of France, and there was no more prospect of its being given up to England, than there was the prospect of any other place in the world being given up to them. Such a notion never could have entered the mind of any Frenchman. To talk of this being a certificate, or to say that any man could have sat down and written, at that period, that such a thing was likely to happen, seems to me to be totally inconsistent. Then the next document is that signed Estienne, who tells you that he heard of the grants to the Earl of Stirling, and that Mallet had procured to him a perusal of the charter. It is a singular fact, that here is a charter conveying estates in Scotland as well as in America. The estates in Scotland were something to be got at, but the estates in America were not so easily to be got at; but the story here is, that while the Earl of Stirling did not record this charter in that country where he could get something by recording it, he carries it out to America where he could get nothing. It seems to me inconsistent with all the rules of probability, that any man in his sound senses, if he had got a charter executed altering the designation of estates, would leave it unrecorded in the proper place. The first thing he would have thought of, would be to procure the evidence of that alteration, and of having it duly recorded. He was an old man, certainly, but a man of very great talent. Then there is the letter bearing to be written by John Alexander, dated Antrim, in which he says,—"The charter was at one time registered in Scotland as well as in Acadia, but during the civil war, and under the usurpation of Cromwell, boxes containing a portion of the records of that kingdom were lost during a storm at sea; and, according to the ancient tradition of our family, the register in which this charter was recorded was

among the number of those that perished." This storm at sea was in 1666 or 1667, about forty years before the man was writing, and yet he talks of the *ancient traditions of our family*. Who ever talked of the ancient tradition of a thing that happened forty or fifty years ago? But, above all, the charter itself is said to be in existence, and who would, in such a case, be dreaming of the record? The whole documents seem to me to be an absurdity, and have, one and all of them, been put together in order to the supplying of those links in the pedigree which the Lord Ordinary had pointed out to be awanting.

There was a matter which came out yesterday without any suspicion, which struck me very forcibly, and I call your attention to the writing which appeared under the tombstone inscription when it was taken off by Mr Lizars. It is of very great importance, indeed, supposing always that you are believing the possibility of Fenelon, in 1707, writing a certificate on paper that did not exist till 1718. Observe what are the contents of this writing. The object of the whole of the certificates was to get evidence of the existence of a document of the Earl of Stirling—to get hold of Fenelon, one of the most virtuous men that ever existed, and to produce a certificate of his. It would be strange, indeed, if the letter could have been written by Fenelon; and still more strange, that, if it were his production, it would have been covered over and obliterated. This letter has been read to you. It says of this John Alexander that "he is a man of real merit, and whom every one sees with pleasure at Court, and in the best society in the capital." Fenelon appeared more in his diocese than in his court. If the party had dared to produce that letter, he would have done it; and it is for you to consider whether this was one of the first attempts to bring the *denouement* into operation, and having fabricated the document, and finding that it had not been successfully done, it was put out of view. It is written on a piece of paper, and pasted on the map, and it appears that an attempt had been made to take it off again, but without success. Then this inscription was written on a bit of a map, and whether a map of Canada or not, Canada appears upon it, and pasted down upon this document that had not been successfully fabricated. I do not know that, in all my life, I have ever seen any thing that tended more conclusively to satisfy my mind of any thing, than this fact satisfies me that this is an entire fabrication from the beginning.

Now, the next question that I put to you is this,—Here is

the document, and where did it come from? And a most important question it is to answer; and what I am going to say, is merely for the purpose of following out the ground that the Jury are entitled to go on, in considering the forgery. You will recollect that Lord Cockburn's note was issued to the parties on the 10th December. It appears from the prisoner's declaration that a communication had been made by Lady Stirling to Le Normand, desiring her to employ her resources in searching out a paper he was desirous to discover. There is no part to the south of Edinburgh that a letter would not reach in ten days. Now, he goes off immediately after the issuing of Lord Cockburn's interlocutor; and the story he tells is, that in the month of July he was at Mademoiselle Le Normand, and that he there saw the map; that she would not part with it; and he travels off to England and leaves it behind him. Here are two extraordinary facts; he has a suit of magnitude going on, and judgment is pronounced giving the grounds on which it was against him; but he travels away, totally and entirely ignorant, as he tells you, of what the Judge had done. Then he goes to Paris in the month of July, and he has this production exhibited to him. In the meantime he is informed of the Lord Ordinary's note; he travels off to give his vote at the Peers' election in Scotland, and leaves in the hands of a common fortune-teller, this production, which would remove all objections,—a document on which so much of his future prosperity was to depend. This appears to me to be one of the most singular facts that ever I met with in the history of any party or litigation. Then he sends his son to Paris, who brings the map over; it is of importance to observe, that the envoy is the prisoner's own son; and considering that the document is so recovered, and brought over in this way, out of the hands of a common fortune-teller, it is for you, weighing all these things, to say if you have any ground whatever for doubting that the whole of the documents on the map are an entire and complete forgery.

Then, last of all, in regard to this point, we have at the end of the indictment the supposed anonymous letter to Le Normand, which must follow the fate of the document itself. You can have no difficulty or ground for doubting that this letter is a forgery also.

Then comes the packet to Messrs De Porquet and Co. booksellers in London. Observe how this is found. There are two letters of another son of the prisoner's, who tells the story how they were found. (Here his Lordship read the

letters of Eugene to his father, dated London, April 22 and 23.) Observe this young gentleman has no information as to what is in the packet. He does not know, and has no reason to know, that it had any thing to do with the claim of his father to the titles or estates. All that he gets here is a letter addressed to his father. For aught he knew, it might have contained matters of strict confidential communication with which he had no right to interfere. He sat down to consider what he should do. What was the natural thing for him to do? Why, either to send his father the packet, or ask him what he was to do with it. It struck him all at once to go before some public functionary to have it opened in his presence. Did you ever hear of such a thing being done before? In regard to the parchment bearing, "Some of my wife's family papers," I am bound to state to you, that Mr Corrie deponed, that he knew the handwriting of Mr Humphrys perfectly, and recognized the writing on the cover to be that of Mr Humphrys, the prisoner's father. There is a book produced to shew the similarity of the writing to that of the writing of Mr Humphrys. The young gentleman, on seeing this parchment packet, in an instant exclaimed, "That is my grandfather's handwriting." The notary says his duty is now at an end, -- he will not venture to witness the parchment packet. The son then goes to a proctor to have his father's letter opened. I want to know what was more sacred in the seal of the parchment than in the seal of the packet. You heard that the map was accompanied by an anonymous letter, and the person sent to recover the map, and to bring it over, was one of the prisoner's sons. It is a singular coincidence, that this packet came two or three months before, of equal importance, pointing to the same issue, and the person who gets it into his hands is another son of the prisoner's, and he writes the letter which I have read to you. What effect that may have on you on another ground is what I shall notice after. But here is a letter of an extraordinary nature exhibiting a piece of conduct which I believe to be altogether unexampled; and in turning it in every way in my mind, I am at a loss to account for it in any one tangible or reasonable view I can take of the matter. I do not think it of much importance that you should deeply consider whether the writing on the parchment is genuine or not. The writing on the parchment may be genuine, and the documents which were under it may be forged. There may have been papers of his wife's under that cover, but it does not follow that if the other documents

are brought forward under suspicious circumstances, that those documents may not have been taken out and thrown aside, and others put in their place. It is for you to consider whether they are worth any credit whatever.

These, gentlemen, are all the documents that I have to comment upon; and, in considering the question of forgery, you should consider the extraordinary coincidence of two packages of such vital importance to remove the obstacles in the way of the prisoner's success, coming both of them by anonymous letters,—one by post, and the other by two ladies fashionably dressed, who secretly laid them down on Mademoiselle Le Normand's cabinet. It is a matter for your consideration to say whether there are any grounds for your doubting that the English documents are forged also.

Before going into the question as to whether the prisoner was the forger of these documents, or was art and part, I put it to you whether you will hear me on that point now, or adjourn till to-morrow.

The Jury, after consulting among themselves, stated, that even if his Lordship finished that night, they would require some time to examine the documents, and consider their verdict, and requested his Lordship to adjourn till the morrow at nine o'clock.

The Court accordingly adjourned.

FIFTH DAY.

Friday, May 3, 1839.

This day the Court met at nine o'clock, and his Lordship resumed his address to the Jury.

Gentlemen, I called your attention last night to the documents alleged in the indictment to be forged, and stated to you the grounds on which it appeared to me to be your duty to look narrowly to them in order to enable you to judge whether the charge of forgery respecting them is well founded or not. I had little to add on this branch of the case, when the proceedings stopped last night. The principal defence made for the prisoner was various statements of counsel founded on the documents that were produced by De Pages, in order to exhibit a similarity between the handwriting of Fenelon in the certificate on the ancient map, and his handwriting in those productions which were brought by De Pages from France. You will observe that the whole of these observations presuppose that

you are of opinion that there is no evidence before you that the map of De L' Isle was not in existence before 1718. If you believe that the authenticity of the map is not invalidated, looking to the appointment of De L' Isle, and to the evidence of the witnesses who have spoken so decidedly on this point—if you are of opinion that there is not sufficient evidence to satisfy your minds that this map could not have existed till 1718—then you are entitled to look at these comparisons of writing. But if, on the other hand, you are of opinion that the evidence is sufficient—that it leaves no doubt that these documents are a fabrication—that the map on which they are was not in existence till 1718,—then the evidence as to the comparison of the writings can be of no avail.

The prisoner's counsel, in concluding his observations, made various complaints against the public prosecutor. He said that witnesses were not called that might have been called; that evidence had been objected to that should not have been objected to; and that an affidavit was charged to be a forgery which should not have been charged to be a forgery; and he expressed regret at the judgment of the Court in regard to the production of a certificate. It is always a matter of deep regret to me, when a counsel of such eminence as my learned friend Mr Robertson brings forward statements of that description against the public prosecutor, or makes a proposition to the Court for the admission of evidence that he could not for a moment believe the Court would entertain. I do regret it on this account, because it seems to infer, what I know of my own experience to be impossible, that the juries of this country can be misled by insinuations. I am quite sure, and I speak most sincerely and advisedly, that the desiring evidence to be produced which the counsel knows cannot justly and legally be received, in order to found an argument on it, will have no effect on the jury, who know that rules are laid down and fixed for the purpose of maintaining the ends of justice; and in regard to some of those certificates that were tendered in evidence, I shall say no more than this, that in determining the point of law before them, the Court were actuated not more by considerations of law, than by considerations of what was just and due to the prisoner.

In regard to the statement that one witness for the crown was not produced who was in the list, I must tell you this, that it is more than twenty years since, for the purpose of aiding in the defence of persons accused, but whose circumstances did not enable them to bring forward witnesses, it was made a rule, that wherever a witness was stated to be neces-

sary for the defence of the prisoner, the crown, though he did not mean to call that witness himself, put him on the list that the prisoner might avail himself of his testimony. That is not the case with the prisoner; but in consequence of that rule, witnesses that the crown believes may be necessary for the prisoner's defence are called by the crown, that the prisoner may avail himself of their evidence. Accordingly, all those witnesses that are stated to have been brought here, if the prisoner had chosen to call them in his defence, he had an opportunity of producing them before you. I state this to you, that you may see there is no vestige or ground of complaint that that servant of Le Normand's, or any other witness, was improperly withheld by the crown, because, if improperly withheld, the prisoner had the means of bringing them.

I now call your attention to what is the heaviest part of the case. Gentlemen, in my life I never addressed a Jury with greater anxiety than I do now. You all heard the testimony given by Mr Hardinge, and by another witness from England, and by the gallant officer who has attended the prisoner at the bar during the whole of this trial, in regard to the character of the prisoner. The testimony particularly of the gallant officer did not reflect more credit on the prisoner than it did on himself. The feelings of obligation, long ago conferred, never had been obliterated from his mind by the lapse of years, and he gave his testimony with a degree of earnestness and effect which, if it told on your minds as it did on mine, must indeed have produced on you a powerful impression. Therefore, gentlemen, I have little to say on the point; I believe every tittle of it; and that those gentlemen who gave their evidence must have firmly believed every word that they said, and every feeling that they expressed. But taking it at best, it is but the evidence of persons who were not in close contact with him. If the case is doubtful, the prisoner is entitled to the benefit of it; but you must take the case exactly as you get it. You have the evidence of the gallant officer, of Mr Hardinge, and of Mr Corrie. These gentlemen mention that the family of the prisoner was highly respectable; that the prisoner's father lived in a very good style; and the first thing you hear of the prisoner is, that after a long interruption in his correspondence with the Colonel, he had been in France; that he had been a *detenu* by Bonaparte, and there remained till 1814. He states that he was married to a French lady; and the first thing you hear of him afterwards is, as Mr Corrie told you, that he was at the head of a school in the

town of Worcester. He was then in reduced circumstances. This witness tells you of his having certain claims upon the Earldom of Stirling; that he went to London and saw Mr Tyrrell. He tells Tyrrell that he is in the greatest possible difficulty, unable to pay his butcher's bill; that he had left his family in great depression; and he employs this person to borrow money for him. This is in 1829. At that period it is manifest that he was in possession of no property whatever, yet he tells him that he has settled his concerns in the State of Maine, where part of the domains of the Earl of Stirling was situated,—tells him that there were belonging to him there no less than eleven millions of acres; that part of the territory was occupied, and part of it not; and for the portion that was occupied, occupants were willing to pay him at the rate of half a dollar per acre. This is the representation he makes when he employs Tyrrell to borrow money for him. The first observation I make on this is, that there has not been the vestige of evidence produced to you that he was at that time in possession of a single acre in the State of Maine, or that he had had any communication with the occupants of the land. But he holds that out as a ground for raising money, and Tyrrell tells you that, not understanding the matter himself, when persons applied to him in regard to these money transactions, he handed them over for the necessary information to Mr Banks. Mr Banks explained matters, and there was a sum raised equal to L.13,000, by granting bonds to the extent of L.50,000. Whether the persons lending their money were persons willing to take an undue advantage, is a matter with which we have no concern; but when a character is produced and brought forward in order to give a leaning to the side of the prisoner, you must take the facts and consider well what is to be the inference from these facts. Here there can be no question that you have a representation made in regard to property that is not confirmed; and you have money borrowed which, to that moment at least, the prisoner had established no claim to borrow. It is for you, then, to consider these matters, and to say whether or not the evidence of character that has been given of the prisoner is counterbalanced by the evidence of facts to which I have alluded.

In proceeding to consider the circumstances which are to connect the prisoner either with the forgery of the documents in question, or with the uttering of them, knowing them to be forged, there are some parts of the case that are totally and entirely undoubted. In the first place, on the 10th Decem-

ber, the Lord Ordinary issues his note; and by his own declaration, we find that he leaves this country on the 18th, and that ten days thereafter he goes to Paris. Where he went to he does not tell,—under what name he went he does not tell,—how he got his passport has never been discovered, because he conceals the name under which he travelled. But, gentlemen, he remains in Paris from the 21st December till August following, when he returns to vote, as he says, in the Election of Peers. On returning to this country he despatches his son to Paris. The son returns with the map, which, I am assuming, you are to hold to be a fabrication, in the month of October, having all these documents either written or pasted on the back of it. Upon that document there is a seal, which is said to have been cut off the letter of John Alexander. It is a very extraordinary circumstance, that in 1707, the seal in the ordinary use of an individual carrying on a correspondence, should have been cut from a letter and pasted on the back of this map, with a certificate that it was the seal cut off the letter, though the mark where that seal was cut off is not to be found. But, gentlemen, what is that seal? —and this is the matter that you have to compare with your own eyes when you come to consider this case farther. In the judicial examination of the prisoner, observe what he says of it. He is asked by the Judges of the Second Division if he has examined the seals on the packet containing the English documents, and he "declares, that he has not, and is not certain that he ever saw them. And the cover of the packet being shewn him, declares, he does not think he ever saw it before; but he now recognizes the indorsement as in his father's handwriting; and that the seal attached is an impression of his grandfather's seal. The words he recognizes are, 'Some of my wife's family papers.' He had seen that seal many years ago, not later than 1825. It is in the possession of his sister Lady Elizabeth Pountney." Then there is the seal on the back of the fabricated map. He admits that the seal on the packet is taken from a seal in the possession of his own sister, that he saw in 1825; and, therefore, what you have here is the admission that the seal on this packet is the same as the seal that is in the possession of his own family. Now, you find an impression of that very seal on this fabricated map, and you have a corresponding seal on one of the letters produced, said to be an original letter of John Alexander. Now, suppose there was not another tittle of evidence in the case to connect the prisoner with the knowledge of what was going on, look at these facts and see

whether they will not lead you to the conviction that he did know what was going on. Suppose the name of Mademoiselle Le Normand had never been heard of, — suppose he did not know that such a female adventuress existed, — look at this, you find him in that part of the world from whence issued these fabricated documents — he connects himself with the knowledge of them in the month of July, 1837 — you have preserved as genuine a seal which he admits is the seal in the possession of one of his own family, and would not any man of common sense say, that if that seal on the map is a fabrication, it could only have been appended to it when he had the means of access to that seal, which is in the possession of the sister of the prisoner? Gentlemen, that is a very short view of this part of the case, and it is for you to consider well, what are the inferences to be drawn from it. I am stating to you facts as they appear in the evidence, but, in addition to these, if you take in the other circumstances connected with it, it was proved by Leguix, that during the time this fabrication was going on, he, Leguix, was a mapseller in Paris, and that an Englishman frequently was in his shop inquiring after a map of De L' Isle of 1703. In regard to the evidence of Leguix, you recollect that it was objected to, but admitted by the Court; and although, in regard to his particular case, there was no discussion as to his admissibility, because the matter appeared so plain and palpable, and so perfectly recognized in the principle of the law, that the counsel thought it unnecessary to press it; but in regard to the next witness, their objection was heard at length, and the Court repelled the objection. With the exception of this single circumstance, there was not a word stated against the testimony of Leguix, which could expose it to any suspicion. Well, then, you have the evidence of Leguix, telling you that although he does not connect the purchase of the map with the prisoner himself, that there was a map of Canada, corresponding with the one libelled on, disposed of by him to an Englishman. Now, I say, it is for you to consider this fact, when you come to look at the other part of the case in regard to his connection with the whole of this procedure. If this paper be a fabrication, and it is in that view of the case that I am now stating the matter to you, there can be no question that it was during the months that intervened between December, 1836, and July, 1837, that this fabrication must have been made; and it is for you to consider, as you find him at that time in Paris, and the map coming from Paris, what is the result.

In considering the declarations of the prisoner, on a question of *bona fides*, it is of the utmost importance that a Jury should weigh not only the general import of the declarations, —not merely the sentences, but the words and the letters; and it is next important that you should attend, first, to what he says in the beginning of his declaration before the Court. (His Lordship then went over the declarations of the prisoner before the Court of Session and the Sheriff, pointing out and commenting upon the various discrepancies in the several admissions, and especially in regard to the bond which he had granted to Mademoiselle Le Normand for 400,000 francs. His Lordship then proceeded to read and comment on the letters from Mademoiselle Le Normand to the prisoner, pointing out the mysterious and suspicious hints and expressions which they contained, proving that she had a knowledge of the forgery—that they were inconsistent with fair and open dealing, and directing the attention of the Jury to the circumstance, that if these 400,000 francs had been given to Mademoiselle Le Normand, in consideration of the part she acted in the fabrication of the documents on the back of the map of Canada, the prisoner was to all intents and purposes art and part in the forgery.)

Now, gentlemen, you find him negociating with this sibyl during the whole part of this intermediate period, negociating with a notorious adventuress in Paris, who says she never allowed a falsehood to pass her lips, telling fortunes, and extorting money out of the pockets of persons, under no honest pretence whatever, and telling one lie after another, every day and every night in her life. The counsel for the prisoner argued the prisoner's belief of the black art, in testimony of his being a dupe. Look to her letter in regard to his visit to Paris. They had been in constant communication with each other, and there is this letter produced of the 19th April, 1838, from Mademoiselle Le Normand to the prisoner, in which she says: "It is said that your children, and you yourself, came to Paris in 1836 under assumed names. My answer was, 'had my Lord come to Paris, I should have seen him. It was not till the end of October, or about the 1st of November, that I received a visit from his son Charles. He remained but a few days in the capital. I gave him the map of Canada carefully wrapped up on receiving Lord Stirling's receipt.'" Here you have him receiving letters from this person daily, stating to him the deception she was practising by holding out to those who made inquiry, whether he had been in Paris, that he had not, while she

knew that he had been there, that she had seen him every day and every evening. Now the conduct of this woman is such — mixed up as she is with this document — the person out of whose hands it comes — the individual who first produces the document according to his own statement, — a document which is forged and fabricated, as I am assuming it to be,— that it is of importance to know what are her feelings on the matter. She is desirous to avoid investigation. Why investigate? she says. The document is either true or false: if it is not true, then there is an end of the story. Why investigate? Then she gives an account of how that document came into her possession. Her amanuensis (Triboul) he had only seen twice. He had only seen herself twice; but he afterwards tells you that he employed this Triboul to make copies of this document, in a room in which he had forgot whether there was ink or not. On being interrogated what the letters M. T. signified on one of these letters, the prisoner said, that it was to put him in remembrance of a communication he had then made. Now, observe what is stated of him in Mademoiselle Le Normand's letter to the prisoner, dated 13th August, 1838: "As to M. T. he could have wished to have been *sole* negociator! *Confidence ought to be discreet*, and not *unlimited;* beware of giving offence; he is a *Janus*, but to be carefully treated! Money will be rather scarce. Some partial loans, but M. T. has paralyzed. Your sons ought to employ the language of persuasion to convince. But your enemies have the effrontery to say, that *your last title is your own handywork*, &c. that you have returned to Paris; my answer has been No! for *I should have seen him.*" Then she goes on in the language of a sibyl: "You will be much pinched to reach the month of November. A little money will be given." In regard to the letter about the man on the Quai, I have no observations to make. Read it your own way; and whether it was the one party or the other that wished him to go over, is, I presume, of very little consequence.

There is a letter from this lady to the prisoner, of 9th January, 1839, which I cannot pass over. On the 8th, she writes to him by his son, stating that he would receive by post a letter from him, and on the 9th she writes this letter by post, and you will judge whether it was written to be seen or not. She says, "I have lent my money in the most generous way, and they would accuse me of simony, — horrid, horrid." In another part, she says, "Subornation and idle talk can have no weight with your Judges, who, after all, are honourable men, who would not betray their conscience for the purpose

of robbing a family, as well as the creditors of a family, whose head is under the yoke of persecution." This draws you back to the nature and extent of the obligation to her. It is an obligation altogether contingent on the success of the prisoner in obtaining funds, either by success in the suit that was pending, or in some other way.

Gentlemen, this is a question altogether for you to determine. We can only take the evidence before us, and can go no farther. Such are the circumstances from which you are now to enter on the guilty knowledge of the prisoner. The question is not, whether he forged them with his own hand, but whether he was art and part in the forgery; whether or not he was cognizant of a forgery going on in Paris during the eight months he was there, for the purpose of aiding and abetting him in the conspiracy he had formed of obtaining the Earldom of the Earl of Stirling. And in doing so, you are to consider all the contradictions in his statements, — all the grounds of suspicion arising from concealment, — his communication with Mademoiselle Le Normand, proved and admitted during the whole of the period he was in Paris at this time; and you are to consider the fact of his having granted to this woman, this notorious fortune-teller, the sum of 400,000 francs, and whether it was given in remuneration for what she was engaged in, namely, in completing this document; and you are to consider whether this does not immediately bring him in contact with the fabrication of that document. And you are to consider farther, the effect of finding attached to the back of this map a seal, which he admits is in the possession of his family, and which he says is an impression of the actual seal that had belonged to his grandfather. All these are matters for you to weigh, maturely and deliberately to consider; and then you will also consider the weight of the exculpatory evidence. In regard to the charter, we have the evidence of Mr Lockhart. It is no very great imputation on any one, that if a forgery is conducted with ability it should not be immediately detected. I recollect well a case that occurred in the Court of Session some thirty years ago, and what is very strange, it was the case of a person of the name of Alexander, and that is probably the cause that it has been brought to my recollection. A tailor of that name in Ayr, found that a family of that name had died without heirs apparently existing. He got access to the garret, and found a number of old letters. He took them out, and produced a number of letters written as if recognizing the connection of his great-grandfather with the family, and they were all tabled

before the Court, to prove his connection, and the Lord Ordinary decided the case in his favour. The case came into the Inner House. There were a number of circumstances, which I need not detail, which led me, then a young man in the profession, to entertain great doubts of the authenticity of some of the documents; and some of these were, that there were a number of words and letters purporting to be from different individuals, spelled in a similar way, and it seemed to me strange that some ten or twelve individuals should misspell in the same way. Besides, in looking at the letters, I had not a doubt that they were all written by the same hand. There was another small circumstance which had its weight, and that was, that the letters had apparently been closed by very small wafers, which I suspected had not been in use at the date which these letters purported to bear. From these, and other circumstances, the case came to attract the attention of the house. The party was brought up to the table, and examined in presence of the Court. He was directed to sit down, and to write over some of the letters that had been misspelled, and it so happened that he misspelled them precisely in the same way as in the letters, which proved to a demonstration that he had fabricated one and all of them himself; and we had engravers swearing, to the best of their belief, that they were written by half-a-dozen of different people! Well, is it any thing strange that this fabrication should have escaped the eyes of the Court or the agents at first? Not at all. It is subsequent examination that leads to the truth; and I am not very much surprised that an agent not in practice in criminal courts should even overlook the most palpable defects in these fabrications. Therefore I have nothing to say in regard to Mr Lockhart farther than that I am surprised that he should have told us that, after having examined this charter, that he still entertained a doubt as to whether it was genuine or not. This does not apply to the other documents; and if you think that you are entitled to take this as good evidence that the prisoner was in *bona fide* in uttering this excerpt, good and well. But take this with the fact, that he not only uttered the charter, but the map; and you are to consider, not whether Mr Lockhart considered them to be fabrications, but whether the prisoner knew that they were fabrications.

There is another topic which I had occasion to revert to last night, viz. the letter of Eugene Alexander to his father communicating to him the evidence said to have been recovered in London. I read it to shew you that when the party

who wrote the letter took the extraordinary steps that he did take, he must have suspected, if he did not know, what was within the envelope when he took it to a notary to have it opened in Doctor's Commons. It is for you, gentlemen, to read that letter patiently and considerately, and to shew whether it bears on the evidence, however it may condemn Eugene; whether it is not a letter that was sent to the prisoner to make him believe that they were genuine documents, and to get his authority for the production of them in process. You will couple this with the whole facts of the case, the declarations of the prisoner, the contradictions and the admissions made by him, and judge whether they do not couple and connect him with the fabrication of the documents on the back of the map; and, in my mind, I must tell you that there does not rest the shadow of a doubt of its being a forged document.

Gentlemen, that is the whole of the case which occurs to my mind. I am sure I have never bestowed more careful attention to any case in my life—I have never stated a case with feelings of greater pain. I am sure if feelings were to operate with me, I should have stated this case very differently; but neither you nor I have any right to give way to feelings. Our business is to do nothing but justice, to weigh the evidence which has been brought before us, and if we have a doubt, to give the prisoner the benefit of it. But neither you nor I are entitled to give way to doubts that are not reasonable. We are not to require in this case what has never been required in any other, clear and direct proof of all and every one of the facts set before you. You are bound to take the whole circumstances together, and to draw the legal and reasonable inference from them without looking either to the right hand or the left. That it is a most serious case for the prisoner is, alas! unquestionable, and which, if proved, would, a few years ago, have brought against him a capital punishment. That law is now at an end in such questions as this. The punishment that can be awarded here does not extend beyond that of an arbitrary punishment. I state this to you as an additional reason, if any is necessary, why you should patiently, calmly, and deliberately go over this evidence, that a punishment of a very high description would attend a conviction of the prisoner; but neither you nor I can take that any farther into consideration in weighing the evidence, except to cause us more minutely to enter into it. We are not responsible, it is the law that is responsible for the punishment; and because the law may give a punishment more

severe than individuals may think the case requires, God forbid that either you or I should so far forget our duty, that we should so far forget the obligation of our oaths, as to be swayed from giving an honest conviction of the evidence from considerations of punishment. As I have said before, this is a most grave and solemn question; and I am sure, in addressing you, who have paid such unwearied attention to every word of the evidence, and to every word that has been uttered, that it would be useless to press upon you another sentence.

His Lordship ended his address at Eleven o'clock.

After an absence of five hours, the Jury returned and delivered the following verdict, which was read by GEORGE HOGARTH, Esq. their Chancellor, as follows:—

1. We find unanimously that the excerpt charter libelled on is a forged document; and find, by a majority, that it is not proven that the prisoner forged it, or was guilty art and part thereof; and also, that it is not proven that he uttered it as genuine, knowing it to be forged.

Here there was a general burst of applause, particularly from the gallery.

LORD MEADOWBANK.—The gallery must be cleared immediately; and those that don't go out will be committed by the Court. [The gallery having accordingly been cleared, his Lordship proceeded to say,—] The under part of the Court has not been cleared; but if there is the slightest attempt to express either approbation or disapprobation, the individual will be marked, and unquestionably will be sent to jail, for attempting to infringe upon the propriety and decency of the Court. You may depend upon it that this will be the case, whoever is the individual, be it one person or another. Let me, therefore, recommend nothing but decency and silence.

The Chancellor of the Jury proceeded to read the remaining part of the verdict:—

2. We find unanimously, that the documents upon the map libelled on are forged, and by a majority find, that it is not proven that the prisoner forged them, or was art and part thereof; and not proven that he uttered them as genuine, knowing them to be forged.

3. We find unanimously, that the documents in De Porquet's packet are not proven to be forged, or that they were uttered by the prisoner as genuine knowing them to be forged.

4. We find the letter of Le Normand, in the 5th charge, not proven to be forged, or uttered as genuine by the prisoner, knowing it to be forged.

Immediately on the verdict being pronounced, the prisoner fell forward upon the railing of the dock, but was caught in the arms of his friend Colonel D'Aguilar, who, assisted by the officers, supported him, and by the directions of a medical gentleman, laid him on his back upon the seat. For a minute or two the unfortunate gentleman appeared to be greatly convulsed, uttering deep groans. Dr Campbell then came to his assistance; and, at the suggestion of Lord Meadowbank, he was carried, still insensible, into an adjoining apartment.

In a few minutes Mr Adam Anderson, one of his counsel, came in and stated to the Court, on the authority of the medical gentlemen, that the return of the prisoner into Court might be attended with danger, by producing a recurrence of the attack. He therefore prayed the Court to dispense with his attendance.

Lord Meadowbank said, that in these circumstances the Court would order the verdict to be recorded, and pronounce the judgment, assoilzieing the prisoner, which was accordingly done.

Lord Meadowbank then addressed the jury, saying, that they were now discharged. They had had a laborious attendance, and had given, he was persuaded, every attention to the case. The Court would therefore pronounce an interlocutor, absolving them from attendance as jurymen for the space of two years.

The Chancellor then said, I have been requested to convey to your Lordships and the officers of Court the thanks of the jury for the kindness they have received, and the great attention which had been paid to their comfort throughout the proceedings.

APPENDIX TO TRIAL.

No. I.

[No. 7. of Inventory of Productions, Search A.]

'COPY SEARCH for any Charter of *Novodamus* under the Great 'Seal, or other Charter or Patent, more especially any Charter 'or Patent, containing a Grant of Honours under the Great 'Seal in favour of William, Earl of Stirling, (or any other Earl 'of Stirling,) after a Patent, dated 1633 (14th June) and down 'to the Union 1707.

'Where a hiatus occurs, state the fact (if so) that the Keepers 'of the Records are enabled to state precisely from Indexes 'contemporary, or other authentic sources, the charters which 'formerly stood in that part of the Record, and if any of these 'were such as required in the Search ordered.

'C. I.'

Index of Great Seal Register from 16th June, 1832.

Willielmi Comitis de Stirling Vicecomitis de Canada, Domini Alexander de Tullibodie, dated at Dalkeith, 14th June, 1633. Diploma, Lib. 54, No. 135.

Willielmi Comitis de Stirling et Willielmi Domini Alex^r. eius filii Terrarum et Baronie de Tillicultrie, &c. Dated at Edinburgh, 12th July, 1634. Carta, Lib 54, No. 268.

Willielmi Comitis de Stirling Terrarum et Baronie de Gairtmoir, &c. Dated at Edinburgh, 23d January, 1636. Carta, Lib. 55, No. 191.

Caroli Alexandri Filij litimi quond. W^ml^. Comitis de Stirling Terrarum et Baroniæ de Tilliebodie aliorumque. Dated 27th June, 1642.

I, George Robertson, one of the deputy-keepers of the Records of Scotland, Do hereby certify, that I have searched the Index of the Great Seal Register, from the 16th day of June, 1632, being the date of the first charter recorded in the fifty-fourth volume, to the 8th day of July, 1710 years, being date of the last charter recorded in the 84th volume of that Register, but found no Charter of *novodamus* under the Great Seal, nor any other Charter nor Patent under the Great Seal; and in particular, no other Charter nor Patent containing a grant of honours in favour of William Earl of Stirling, nor any other Earl of Stirling than those above noted.

(Signed) GEO. ROBERTSON.

I, George Robertson, before designed, do likewise certify, that I have searched the Principal Record of the 57th Volume of the Great Seal Register, and that at the beginning of the said 57th volume, twelve leaves have been destroyed or lost. The Charters originally recorded on these missing leaves are, however, ascertained with precision from two ancient indexes of the Great Seal Record. I have examined these, and can state as the result, that the twelve leaves now lost did not contain any charter, diploma, patent, nor other grant in favour of William Earl of Stirling, nor of any person of the name of Alexander.

[No. 7 of Inventory of Productions, Search B.]

'SEARCH in the Register of Signatures for any Signature in 'favour of William Earl of Stirling, from the 7th day of 'December, 1639, to the 31st day of January, 1641 years.'

Register of Signatures
From 7th December
1639.

I, George Robertson, one of the Deputy Keepers of the Records of Scotland, Do hereby certify, that I have searched the Register of Signatures from the 7th day of December 1639, to the 31st day of January 1641 years, but found no signature in favour of William Earl of Stirling recorded during that period.

(Signed) GEO. ROBERTSON.

[No. 7 of Inventory of Productions, Search C.]

SEARCH in the General Register of Seisins for any Seisin in favour of William Earl of Stirling, from the 7th day of December, 1639, to the 31st day of January, 1641 years.

General Register of Seisins
From 7th December,
1639.

I, George Robertson, one of the Deputy-keepers of the Records of Scotland, Do hereby certify that I have searched the Minute Book of the General Register of Seisins, from the 7th day of December, 1639, to the 31st day of January, 1641 years, but found no Seisin in favour of William Earl of Stirling recorded in that Register during that period.

(Signed) GEO. ROBERTSON.

[No 7 of Inventory of Productions, Search D.]

SEARCH in the Privy Seal Record for any Precept of Charter in favour of William Earl of Stirling, from the 7th day of December, 1639, to the 31st day of January, 1641 years.

Privy Seal Record
from 7th December,
1639.

I, George Robertson, one of the Deputy Keepers of the Records of Scotland, Do hereby certify, that I have searched the Record of the Privy Seal, from the 7th day of December, 1639, to the 31st day of January, 1641 years, but found no Precept of Charter in favour of William Earl of Stirling, recorded in that Register during that period.

[No. 8 of Inventory of Productions.]

EXTRACT from Diploma Willielmi Vicecomitis de Stirling domini Alexander deTulliebodie &c &c. dated, 4th September 1630. Reg. Mag. Sig. Lib. 53. pt. 2d, No. 135.

Dominum Willielmum Alexander de Menstrie militem vtriusq. regni nrj. consiliarium regni nrj Scotie principalem secretarium ac regionis et dominii nrj nove Scotie in America nrum hereditarium locum tenentem in variis magnis et seriis negotiis sibi comissis

prestitum Et quiem ipse primus fuerat dicti regni nrj Scotie qui Coloniam magno patrie sue decori et bono publico in regiones transmarinas duxerat quem conatum his annis elapsis ingenti sumptu et labore subiit ac variis expeditionibus et negotiationibus pro plantatione dicte regionis nove Scotie fovit et audaxit Igitur nos regii nrj favoris et gratie tesseram in eum conferre volentes fecimus creavimus et constituimus tenoreq pntium ex regia nra potestate et authoritate regali facimus creamus et constituimus prefatum Dominum Willielmum Alexander Vicecomitem de Stirling Doium Alexander de Tullibodie dando et concedendo sibi et heredibus suis masculis cognomen et arma de Alexander gerentibus titulum honorem gradum et dignitatem vicecomitis dicti regni nrj Scotie &c.

[No. $\frac{8}{2}$ of Inventory of Productions.]

Reg. Mag. Sig. vol. 54. No. 135. EXTRACT from Diploma Willielmi Comitis de Stirling Vicecomitis de Canada dnj Alexander de Tulliebodie, &c. dated 14th June 1633.

Willielmum Vicecomitem de Stirling Dum Alexander de Tulliebodie nrm Secretarium principalem regni nri Scotie et quond nro clarissimo patri nunquam inter moriture memorie prestita et impensa eiusq. periculosam et sumphiosam detectionem possessionem et additionem Nove Scotie et Canade huic antiquissimo regno nro Scotie vt alij ejus exemplo ad similes virtutum vias instigentur prout liquet cum ex eo quod ipse scripsit tum ex eo quod de ipse scriptum est Igitur nos ex autate regali et ptate regia fecimus constituimus et creavimus tenoreq pntium facimus constituimus et creamus prefatum Willielmum Vicecomitem de Stirling Comitem de Stirling Vicecomitem de Canada Dum Alexander de Tullibodie dan et conceden prout tenore pntium damus et concedimus sibi suisq heredibus masculis imperpetuum &c.

[No. $\frac{8}{3}$ of Inventory of Productions.]

Regm. Mag. Sigilli. Lib. 54, No. 268. EXTRACT from CARTA Willielmi Comitis de Stirling et Willielmi Domini Alexr eius filij Terrarum et Baronie de Tilliecultrie &c. dated 12th July 1634.

Predilecto nro consanguineo et consiliario W^mo^ Comiti de Stirling Vicecomiti de Canada Domino Alexr de Menstrie et Tullibodie nro Secretario principali regni nri Scotie in vitali reditu pro omnibus sue vite diebus ac predilecto nro consanguineo W^mo^ Dno Alexr eius filio in feodo ac heredibus masculis de corpore suo ltime procreat. seu procreand Quibus Deficien. heredibus masculis dicti nri consanguinei et consiliarij Wmi Comitis de Stirling et suis

assignatis quibuscunq. herie et irredemabiliter Totas et integras terras et Baroniam de Tullicultrie viz. &c.

[No. $\frac{8}{4}$ of Inventory of Productions.]

EXTRACT from CARTA Willielmo Comitis de Sterling Terrarum et Baronie de Gairtmoir &c. dated 23d January, 1636.

Registrum, Mag. Sigilli, Lib. 55, No. 191.

Predilecto nro consanguineo et consiliario W^mo^. Comiti de Sterling Vicecomiti de Canada Domino Alexander de Tullibodie et Menstrie nro Secretario dicti regni nri Scotie heredibus suis et assignatis quibuscunq hereditarie omnes et singulas duodecim mercatas terrarum antiqui extentus de Gairtmoir. &c.

[No. $\frac{8}{5}$ of Inventory of Productions.]

CARTA Caroli Alexander trarum et Baronie de Tullibodie alioruq subscript. dated 27th June 1642.

Mag. Reg. Sig. vol. 57, No. 108.

Delecto nro Carolo Alexander filio ltimo quondi Wmi. Comitis de Stirling heredibus suis successoribus et assignatis quibuscunq here^rie^ omnes et singulas tras baronias aliaque particularit. subscript. viz. Totas et Integras tras et baroniam de Tullibodie &c.

Et similiter totas et integras tras et baroniam de Tillicultrie viz. Terras &c.

[No. 11 of Inventory of Productions.]

CERTIFICATE of Search of Signatures under Letter S. from 1623 to 1653, dated 9th March, 1839.

I, ROBERT WEBSTER, Assistant Clerk and Extractor, Signet Office, Edinburgh, Do hereby certify, that I searched the Index to the Record of Signatures, under the Letter S. and bundle first relative thereto, from sixteen hundred and twenty-three, to sixteen hundred and fifty-three, and found no signature in favour of William Earl of Stirling, of Nova Scotia, and other lands in America, and of Tullibodie, Tullicultrie, Gartmore, and others, in Scotland, said to be dated seventh December, sixteen hundred and thirty-nine.

(Signed) ROBERT WEBSTER.

Signet Office, Edinburgh,
9th March, 1839.

No. II.

Edinburgh, 25th April, 1839.

ADDITIONAL DEFENCES for Alexander Alexander, Earl of Stirling, — *Pannel.*

The pannel has nothing to add to his original defences, to which he adheres.

He subjoins a list of witnesses and documents to be adduced on his behalf, and has to state that he may also adduce some of the witnesses in the Crown list, and use some of the documents already produced by the Crown. The witness No. 2, Charles Herald De Pages, has not yet arrived from Paris, but is hourly expected, and is to bring with him certain writings, which will be produced on his arrival. The witnesses Nos. 1, 4, 5, 7, and 8, are not yet arrived, but are hourly expected, and are to be sent to the hotels mentioned. Two clerks from the General Post-office, whose names will be afterwards furnished, are also to be called to prove the post-marks on the various letters produced, if necessary.

In respect whereof, &c.

Patrick Robertson.

LIST OF WITNESSES.

1. William Benner, Professor of Languages, lately residing at number 36 Rue Ponthieu, Paris, presently residing at the Waterloo Hotel, Waterloo Place, Edinburgh,
2. Charles Herald de Pages, attaché aux travaux Historique in the Bibliotheque Royale, Paris, presently residing at the Waterloo Hotel, Waterloo Place, Edinburgh.
3. Josiah Corrie, Solicitor and Master extraordinary in Chancery, lately residing in New Street Birmingham, and presently residing at the Waterloo Hotel, Waterloo Place, Edinburgh.
4. Thomas Wilson Barlow, Solicitor to the Court of Chancery, and to the Board of Ordnance, Ireland, and presently residing at the Royal Hotel, Prince's Street, Edinburgh.
5. William Cotton Landry, Assistant to the said Thomas Wilson Barlow, and presently residing at the Royal Hotel, Prince's Street, Edinburgh.

6. Mrs Eliza Humphrys or Pountney, spouse of Charles Pountney, Esq. of Manchester, and now residing at the Waterloo Hotel, Waterloo Place, Edinburgh.
7. Colonel George Charles D'Aguilar, Deputy Adjutant-General to the Forces in Ireland, and now residing at the Royal Hotel, Prince's Street, Edinburgh.
8. The Right Honourable John Lord Rollo, now residing at 15 Albany Street, Edinburgh.
9. Charles Harding, Esq. of Bole Hall, near Tamworth, Staffordshire, now residing at the Waterloo Hotel, Waterloo Place, Edinburgh.
10. Roger Aytoun, writer to the Signet, now residing in Abercromby Place, Edinburgh.
11. Major James Pearson, of the Honourable East India Company's Service, now or lately residing in Drummond Place, Edinburgh.
12. John Taylor, cabinet-maker, now or lately residing in No. 25 India Street, Edinburgh.
13. Mrs Marion Miller or Taylor, spouse of, and now or lately residing with, the said John Taylor.
14. Janet Mitchell, now or lately servant to, and now or lately residing with, the said John Taylor.
15. Elizabeth Menzies, now or lately residing in India Street, Edinburgh.
16. Robert Kerr, now or lately clerk to David Cleghorn, W.S., now or lately residing in Castle Street, Edinburgh.
17. John Johnstone, engraver and printer, and now or lately residing at number ninety-four South Bridge, Edinburgh.
18. Archibald Bell, lithographer, and now or lately residing at No. 2 Gabriel's Road, Edinburgh.
19. Samuel Leith, lithographer, residing at No. 13, St James' Square, Edinburgh.
20. John Skirving, punch-cutter, now or lately residing at Mrs Stevenson's lodgings, Nicolson Square, Edinburgh.
21. A. Allison M'Leish, accountant, and now or lately residing in number twenty-eight, India Street, Edinburgh.
22. Two Clerks of the General Post-Office, to prove post-marks of letters, if objected to.

INVENTORY OF PRODUCTIONS.

1. Book entitled an Atlas, consisting of three volumes folio.
2. Fifteen or thereby loose Maps, by G. De L'Isle.
3. Book entitled Crawfurd's Lives of the Officers of State.
4. Book of Accounts, titled on the outside 'W. Humphry's accounts with his tenants, &c. 1798.'
5. An engraved Copperplate.
6. Three or thereby modern Maps.

7. Letter Thomas Christopher Banks, dated 23d April 1828, addressed to the Earl of Stirling.
8. Letter T. C. Banks, dated Dublin, 26th April 1828, addressed to the Earl of Stirling.
9. Letter T. C. Banks, Dublin, 2d May 1828, addressed to the Earl of Stirling.
10. Letter T. C. Banks, dated Antrim, 6th May 1828, addressed to the Earl of Stirling.
11. Letter T. C. Banks, dated Trevor Square, 28th Jan. 1829, addressed to E. Lockhart, W.S.
12. Letter T. C. Banks, dated Netherton House, 15th Feb. 1829, addressed to the Earl of Stirling.
13. Letter T. C. Banks, dated Dublin, 24th February 1829, addressed to the Earl of Stirling.
14. Letter T. C. Banks, dated Donaghedy, 3d March 1829, addressed to the Earl of Stirling.
15. Letter T. C. Banks, dated Donaghadee, 4th March 1829, addressed to the Earl of Stirling.
16. Letter T. C. Banks, dated Carlow, 17th March 1829, addressed to the Earl of Stirling.
17. Letter T. C. Banks, dated Dublin, 24th March 1829, addressed to the Earl of Stirling.
18. Letter T. C. Banks, dated Netherton House, 10th April 1829, addressed to E. Lockhart, W.S.
19. Letter dated Netherton House, 17th April 1829, addressed to E. Lockhart, W.S.
21. Letter Wm. Humphrys, dated Henwick, 10th May 1800, addressed to the said Josiah Corrie.
20. Letter Wm. Humphrys, dated Henwick, 9th May 1800, addressed to Mr Josiah Corrie, Attorney-at-law, Birmingham.
22. Letter ditto, dated Henwick, 13th March 1801, addressed to ditto.
23. Letter ditto, dated Henwick, 3d March 1801, addressed to ditto.
24. Letter ditto, dated Verdun Sur Meuse, 17th September 1806.
25. Letter ditto, dated Henwick, 16th May 1800, addressed to the said Josiah Corrie.
26 Letter Wm. Humphrys, dated Cheltenham, 23d July 1799, addressed to ditto.
27. A copy of the North British Advertiser Newspaper, dated 23d September 1837,
28. A copy of the Morning Herald Newspaper, dated 25th September 1837.
29. A copy of the Morning Chronicle Newspaper of 25th September 1837.
30. A copy of the Dublin Evening Post, of date 26th September 1837.
31. A copy of the Times Newspaper (London,) of date 27th September 1837.

32. A copy of the Staffordshire Advertiser, of date 30th September 1837.
33. A copy of Aris's Birmingham Gazette, dated 2d October 1837.

* CORRESPONDENCE between Mr Thomas C. Banks, Lord Stirling, and Mr Lockhart, in 1828 and 1829.

MR BANKS TO LORD STIRLING.

Dublin, 23d April, 1828.

My dear Lord, — On this Irish sheet of paper, I have the satisfaction to say that I arrived here yesterday, after a very squally tedious passage, accompanied with a great deal of rain and thunder. I met with a Mr Harvey, Receiver-General for Wexford, by whom I was recommended to a good hotel, at Tuthills, 31 Dawson Street, no great way from Mr Hogan's. I remain at the hotel, Mrs H. being very unwell. Mr H. was much pleased with your letter and its contents, and has desired me to communicate its receival, but he will write to you by me on my return. We have found the will of Merefield who died in 1724, and the will of Conyers who died in 1726. It is singular that both these persons were sick at the time of making their wills, so that their signatures, though in every respect corresponding with their handwriting in the depositions, have that degree of variation which may be naturally expected between a person in sound health, and one on a bed of sickness.

We intend to get the Inspector of Franks of the General P. O. to examine the depositionary writing with the registered signatures, and verify their correspondence by a proper affidavit, to be certified by a notary and sworn before the Lord Mayor. We have examined several rolls of judgment, to which Baron Pocklington's name is subscribed, in the same year, 1723, and afterwards in 1729. This verification will be also certified by affidavit, the same as the other of Conyers and Merefield. We have ordered a copy of the patent by which Pocklington was constituted a Baron of the Exchequer, in order to prove that he was a Judge, and that he acted judicially in the aforesaid, affixing his name to the records of the court in which he presided. We are now preparing to follow up the inquiry about Hovenden and Jonas Percy, and the correctness of the paper and stamps of the day, and hope to succeed therein by perseverance. I have suggested a case for the opinion of the Attorney-General of Ireland, as to the effect of these documents when duly verified upon the practice of the court, with regard to the establishing the validity and tenor of deeds thus shewn to have existed, but now not to be found. Mr Hogan

* [In every point of view these letters of Mr Banks are the most refreshing in the annals of genealogy. — Ed.]

highly approves this, and considers that the approbation of such a man as the Attorney-General, as to such adminicles being good and legal evidences in Ireland, the same principle must apply to the same efficient purpose in England. The expenses of researches and extracts or office copies are very great, which I dare say prevented Mr H. from acting with that energy before, which he seems now very readily to exert. As I pay every thing, I am afraid I shall fall short when all to be done shall be perfected; but I think what is doing, and the success which has attended all as yet, will amply and satisfactorily be an equivalent for the great trouble and great disbursements. I am in great hopes, through the assistance of Mr Harvey, to trace Conyers' family, which if I do, and find his representatives, it is most probable a great deal of information might be obtained, for his papers might mention when and to whom he gave the charter, and not improbably even a *copy might be found amongst them.* He had two sons, Edward and Christopher, and in his will, desires his seat and personal property to be divided among his children. I hope you have arrived safely at Worcester, and found all well. I perfectly satisfied Mr H. about your not voting. He seems very friendly and kind. Mrs H. is a *pretty pleasing woman in manners*, and inquired after you in very friendly terms. I shall write to your Lordship again in a day or two, and hope to announce the completion of what is wanted. My best regards to Lady Stirling, and all the dear family, and I remain, my dear Lord, yours most faithfully.

(Signed) T. C. Banks.

MR BANKS TO LORD STIRLING.

Dublin, 26th April, 1828.

My dear Lord, — Since my last announcing my arrival here, and what I had so far done, I am happy now to communicate that I consider the signatures of all the parties, viz. Conyers, Merefield, and Percy can be proved most satisfactorily. This morning, after a most laborious research, taking me from half-past 10 to 3 o'clock, turning over the very dirty rolls of affidavits filed in the Court of Chancery for 1722, I found the signature of Jonas Percy corresponding in the nicest degree with that of his name to Sarah Lyners's deposition. In the same roll I was so fortunate as to find three affidavits sworn before *Mr Conyers* as a master extraordinary in Chancery, each signature completely proving the identity of his writing to Gordon's statement and Hovenden's affidavit, and shewing (a most important point) *who he was.* Of all these I have ordered office copies. I have also found that Conyers was a man *of property*, and (exclusively of his professional respectability) was concerned for families of consequence, there being in the Register-Office a deed executed by him, along with Brigadier-General I have found the writing of Baron Pock-

lington in many years, but have confined the comparison of hand to his subscription at the foot of two rolls in Hilary and Michaelmas *terms of* 1723. At present I am uncertain whether the Inspector of Franks in the General Post-office will condescend to examine and compare these records with our documents; but if not, I hope to get one of the examiners of the Bank to do so, and make affidavit thereupon. The gentleman, Mr Harvey, of whom I made mention in my last, has informed me that he hears there is a Mr Hovenden, now an attorney, living at Carlow, who probably is a descendent of Henry of Ballynakill, and he recommended me to go immediately there, where he also has informed me, that there was a Miss Conyers, an ancient maiden lady, living a few years since. This seems to indicate a prospect of finding out something yet more favourable. The fees to the notary-public on each deposition will be one guinea, and the same I find to each examination of the inspector. This I think enormous. I have got an inquiry going forward at the Stamp-office respecting the stamps on Hovenden's affidavit. There are *none* to Sarah Lyners, and no stamp duty seems to have been enacted in Ireland. This is rather a point of consideration. I view it, that as Hovenden's affidavit was to be sent to England to Mr J. Alexander, then residing there, it was put *upon English stamps*, and verified by the public notary on that account, for Sarah Lyners's is not corroborated in the same official manner.

I have made a draft for a case for the opinion, as I mentioned, of the Attorney-General of Ireland, but I find I cannot give a less fee than ten guineas for an opinion, and three extra for a consultation, to explain personally the contents, object, and meaning for which the case is laid before him, and on which his opinion and advice are requested. Mr Hogan is so taken up in court, being term-time, that the researches have been left to me, and I am now covered with dirt and dust that neither the colour of my hands or clothes can be readily made out. I have dined with him twice. I fear I cannot lay the case before the Attorney-General, as he will take at least three or four days before he writes his opinion, and thus I certainly shall not have money enough to cover all expenses, thus Mr Hogan's hitherto shyness accounts for itself. I have had a letter from Mr Pountney to which I have replied, and I hope that he will be successful in what he proposes to do at Liverpool.

Mr H. expresses a high confidence in your weight of evidence, as legally and well established by the verifications of the adminicles, of which he had not before an idea of their coming up so perfectly to the proof of the charter, and of your pedigree. I am at a loss what to do, as I think I could leave Dublin by Thursday, were it not for the Attorney-General's opinion, and for this I cannot give a case until I know your approval, and have the means, nothing of which I can well expect to have before that day. But I shall see what can be done to the best advantage

on my return from Carlow on Monday afternoon or Tuesday morning.

What has now been ascertained must set all the *Scotch cavillers* at rest, and the registrar in the Probity of Writs office, and the entry in the Lyon office, I trust will so evidently shew your rights, that hereafter you will not hear more of their base suspicions. My best regards to Lady S. and the dear family. I hope she keeps *up her spirits;* she must by no means *let them droop.* I am, my dear Lord, yours most faithfully.

T. C. Banks.

SAME TO THE SAME.

Dublin, 2d May, 1828.

My dear Lord,—By your last letter, I am glad to find that mine have been safely received, as I write in the evening, and date them accordingly: they are after the day post, and can only go excepting by that of the following morning, but whether by the way of Holyhead or Liverpool I do not know.

As, when I wrote to you last, I mentioned I was going the following morning to Antrim, you will be surprised to have this from Dublin, but I could not get the copies of the records from the several offices, and have them compared and certified by the notary before yesterday, nor could I get Mr West, the Inspector of Franks, to attend the respective offices, and make his examination of the several handwritings before yesterday. He has, however, now completed the comparison, and his affidavit I was in hopes would have been sworn before the Lord Mayor this day. It could not be prepared, nor he able to attend, till after five o'clock, when the Lord Mayor could not receive any applicants, *having to dress for dinner* with the Corporation of the City, to go to the Castle. Thus the matter waits for to-morrow, when I hope all this portion of the business will be completed, and I be able to set out on Sunday morning at six for Belfast, where I must stop for the coach to Antrim, about sixteen miles off. I this day visited the cabbage-garden, and seen the tombstone inscription, which, although copied in full by Mr Hogan, was not copied *de facto* as inscribed, but I made a *fac simile* inscription, so as to be able to embody it in my deposition on my return. I have been to Mr Stewart, the keeper of the old books, but without being able to meet him, though I waited at his house from half-past three to five. I have left an appointment for to-morrow morning at ten, as I wish to see the entry of the baptism of the Rev. J. A.'s children. Indeed, I think much better evidence will be obtained, to prove clearly and absolutely the facts, than you have hitherto had. The intimations given to me by Rev. Mr Armstrong, leads me to a conclusion, that I shall collect on my journey to Antrim and to Londonderry proofs of all that is wanted; and if the pedigree can

be thus supported by legal evidence, neither Lord Redesdale's Irish observations, nor the cavillers of Edinburgh, can be of any detrimental weight. Most implicitly do I place great confidence in your late Parisian information, and I believe that all the latent windings are about to be brought to light; and I think our Edinburgh agent (Mr Wright,) when it can be done, should be paid off, but in good harmony, if possible. His anxiety for the American inquiry I never liked. He pushed it too zealously for to seem not to have some object in sinister view, or why want to take it from the hands *he was told it was in?* It is most material all in the way of research should be absolutely concluded while I am here, and nothing left for a future day, or a second visit to this country. I think I have well succeeded at present, and shall do so in all that remains for investigation. I fear at least six or seven days must still transpire before I can return hither, and then embark for England; but I shall curtail the time to the narrowest moment, for I cannot say I like Ireland so much as Scotland. My absence, I fear, has much embarrassed Mrs B. as I left her with very narrow resources, and I am very uneasy about her. But as I did not leave her any address where to write to me (not wishing to hear melancholy news,) I know not how she is getting on. Your extracts are most encouraging; and indeed it is more than extraordinary that so much truth has been mentioned where the circumstances of past events were never told. Thus, what is to come may be most fairly looked up to as a surety of the wonderful works of Providence in the way of retribution, which, though slow in occurring, is nevertheless true in taking place at the due time, but which human endurance in the interim can rarely be brought to have the patience to await or sustaining severe trials with fortitude. I doubly have pleasure in what has been announced, from the hope that Lady S. will now for herself, her dear family, and you, be confident that the hour of suffering is wearing away, and eternity of happiness and prosperity is about, though at some distance, to be enjoyed. My best regards to her and all. And I remain, &c.

(Signed) T. C. Banks.

SAME TO THE SAME.

Antrim, 6th May, 1828.

My dear Lord,—I left Dublin on Tuesday by the mail for Belfast, where I arrived about 7 in the morning, and 8 proceeded on by the Derry coach to this place, and arrived about half-past 11. I went immediately to the Rev^{d}. Mr Carley, to whom I had a letter from Mr Armstrong. He readily shewed me all his books, but there was no mention anywhere of the name of Alexander or Livingston. We went to the parochial church, but there are no registers earlier than 1823, which purports to be continued from

one for 1816, which is now no more to be found. We went round, with the sexton, the churchyard for tombstone inscriptions, of which there are many very old, and tolerably legible, but none to any one of the Alexander name. The man who keeps the Antrim Arms, where I am, was ch.-warden some years back. He says, that the old registers then consisted of loose papers much decayed, and are totally lost now. Mr Carley then accompanied me to Lord Ferrard, who married the heiress of Massareene, but he informed me that the old papers of the family were so confused, so dirty and inaccessible, that it would take a very long time indeed to look them over. He had never heard of the name of Livingstone as a chaplain to the ancient family, nor of the name of Alexander. He, however, very politely referred me to Collward at Bangor, and Mr Montgomerie at Grey Abbey, for information, the former being a great collector of old family documents, and the latter the representative of the Lord Viscount Alexander's family. Mr Carley has given me a letter for the Reverend Dr Bruce at Belfast, who, he says, has the best account of the Presbyterian ministers, and all relating to them, of any person in Ireland, and is a genealogical and well-informed man. It is much to be regretted this inquiry, as I observed in my last, had not been undertaken sooner, as it is, the most must be made of it. I am now leaving Antrim on return to Belfast, where, of course, I shall see Dr Bruce, and hope to get some information. Donaghadee is about 16 miles from thence, and Comber, Bangor, and Gray Abbey nearly in the same line. I wish I could establish this link of the evidence, as the deposition of Sarah Lyner would then be fully supported by the fact of corresponding statements. Indeed, it appears the chief weak part, and one on which Mr Hogan lays the greatest stress of objection. I had drawn the case for the opinion of the Attorney-General to be taken during my absence, but Mr H. says that, on reflection, he entertains much doubt as to the admissibility of Sarah Lyner's testimony, not as suspicious from defect of being genuine, and even true, but as having been made by a servant, under the influence of a member of her master's family. Therefore, before an objection was taken, he thought it should be suspended till other evidence confirmatory of hers could be procured ; and, upon the whole, as the case was not Irish, an Irish lawyer might not be so good a judge of the practice of the English Courts, with regard to the legal weight of such evidence. This position may in some respects be correct, but on reading your letters, which I have done with great earnestness, I do not know whether it is not, at any rate, better to avoid the Irish A. G. The case must contain the copies of all your documents. Your name and the object for which his opinion is asked. This may strike him and not improbably may lead him to mention the subject which, if so, might tend to the Marquis of D. hearing of it. He would then be very anxious to fling every impediment in the way, and to frustrate the resources of intelligence in the places where the same is to be sought

and acquired. He is very popular in Ireland. Lord G. Hill is a great favourite with the Lord Lt. He came into Tuthill's and made inquiry *who I was*, but that I consider was curiosity, perceiving I was a stranger. All the documents are now verified in a very ample manner, but at a very great expense. I have paid the notary-public near L.11, besides having had all the searches to pay, and the office copies of the several documents. 1st, The faculty by which Merefield was appointed a notary-public. 2d, The patent by which John Pocklington was constituted a Baron of the Exchequer. 3d, An affidavit sworn at Carlow before Thomas Conyers as a master extra in Chancery. 4th, An affidavit sworn before Jonas Percy, as a master extra in Chancery. Those official records thus prove the identity and handwriting of the respective parties. The Rolls of Judgment, filed in the Court of Exchequer, for Hilary and Michaelmas terms 1723, signed by J. Pocklington, are referred to in Mr West, inspector of frank's deposition, who had to be paid for his attendance to swear the same before the Lord Mayor, and also to be paid for his several attendances to examine and compare the documents, in the respective registers, with those of Conyers, Merefield, Percy and Pocklington, a most tedious business altogether, and now fortunately achieved. I hope to get back to Dublin on Thursday, and be at Liverpool by Saturday; could I succeed in the objects now under inquiry, all would be most effectually accomplished. So soon as I arrive in Dublin, I will write all that has transpired, and the time of my departure for England. My best regards to Lady S. who, I hope, continues to revive her spirits, and to all the dear family, I remain, &c.

P.S.—I have written to the Lord Chancellor, and if any notice of the Leigh patronage is made in the Sun, I wish your Lordship would put by the paper for me.

MR T. C. BANKS, TO MR LOCKHART.

Trevor Square, 28th January, 1829.

My dear Sir,—Yours of the 7th instant I duly received, and subsequently thereto have been informed of the contents of your letter of the 13th instant to Lord Stirling. These two letters I have since submitted to Mr Wilson, with some farther observations in elucidation of his former opinion, and in this case I have incorporated the gist of your remarks, in order that the whole subject to which his attention was wanted might be brought under one view, and thereby form the basis of a new case for a more decisive opinion. This has now been given, and I herewith have the pleasure of transmitting it with the amended case for your inspection. At page 7 you will perceive I introduced an explanation of the Errol cause, and at page 9 an argument upon your remarks as to the act of 1685. What Mr W. has now written comes more

immediately to the point, and, as he coincides with your general ideas and mode of procedure, I shall be anxious to have your further sentiments upon the subject.

I must observe that Mr Wilson does not now advise an opinion of Mr Thomson, but recommends that he should be consulted in drawing the summons of reduction, which would thereby draw from him the light in which he considered the merits of the claim to be founded and sustainable. I must confess that I still adhere to the technicalities of description which I pointed out in my former letter as an essentially necessary identification of the lands adjudged. But every thing taken together may be hereafter considered and applied to render this claim of a nature to which none of the cases of decision, not even Robertson against Atholl, can be cited as a precedent in negation of right.

The manner in which you so warmly take up the invocation I made in behalf of Lord Stirling has afforded him as it has myself great satisfaction indeed. Your zeal has been always strongly evinced, and could we get all to move in a similar way, with the golden ball at command, I daresay you will join with me in thinking that ultimate success would prevail.

With the joint compliments and good wishes of Mrs Banks to Mrs Lockhart and yourself, I remain, my dear Sir, yours

(Signed) T. C. Banks.

P.S. The Portmore titles I conceive were totally personal and unconnected with any incorporation of land. The first creation was not twenty years before the union, and the earldom nearly about the period of it.

MR BANKS TO MR LOCKHART.

Netherton House, 15*th February*, 1829.

My dear Sir,—Your two letters, the one to myself, and the other to Lord Stirling, of the 4th instant, are now before me, and I certainly cannot help expressing the satisfaction I have at finding that the amended case, with Mr Wilson's opinion thereon, have so fully acquired your approbation of their respective contents; and here, by the bye, I must observe, that when I sent you the copy of the case and opinion, I had not had time to compare the stationer's copy with the original, but on looking over my copy when I had more leisure to do so, I found that there was omitted a portion rather material. I mean material, so far as it went to strengthen the doctrine laid down, viz. that the lands were inseparable from the title. The passage omitted is in my copy at *page five*, after the citation of that part of the Charter of Novodamus erecting the earldom of Stirling, and concluding *secundum datam dicti comitis supra memorat, &c.*, the addition should have been viz. —'Tenendas et habendas præfatas dignitates cum titulis et hono-

'ribus comitis de Stirling vicecomitis de Stirling et de Canada 'domini Alexander de Tullibodie, &c. cum omnibus aliis prorogativis privilegiis libertatibus et immunitatibus pertinen. vel ad comitem intra dictum regnum quovis tempore 'præterito seu futuro pertinere et spectare valent præfat dominia 'terras baronias aliaque supra memorat prædicto Wilhelmo Comite 'de Stirling suisque supra script,' &c. These words cast the strongest shield round the incorporation, and inseparability, because they respond to the first entailment of the honours and estates, inasmuch as the charter, 1st, recites the course of succession and tailzie of the titles; 2d, designates the lands cotailzied to the same series of heirs; 3d, erects the lands and domains into the Earldom of Stirling, 'cum titulo stylo et dignitate, &c.;' and, 4th, the habendum contains that the titles 'et præfatas dominia terras,' &c. shall be holden and enjoyed by the Earl and his heirs aforesaid. I am sorry to see this paragraph omitted in my copy, *but I hope it is not in yours*; if it should, have the goodness to supply the defect by what I have above written, that the whole *may be perfect*, as you must perceive the force thereof. Since I wrote you, I have heard from a friend in Ireland, mentioning that since I was there, many more of the Montgomery papers have been found, and that it is probable were I to go over, I might be able to find some of the Stirling manuscripts which the old Countess, (widow of the first Earl,) who died there at her daughter's, the Viscountess Montgomery, left behind her. It certainly would be very desirable to have an inspection of these papers, if they can be found. I have therefore communicated the contents of a copy I have had sent me to Lord Stirling, and I am now at Netherton House, that it may be determined whether I shall go over on this affair or not. Should I do so, and any thing very important result, I shall not fail communicating it to you whatever, if any good fortune should occur.

Your draft of reduction is very ably drawn. Mr Wilson approves of it, and continues to advise that Mr Thomson should settle the same before proceeding, I may add, that Mr Wilson compliments you highly on the manner in which you have seen and entertained the subject; and here, my dear Sir, I shall only superadd, that could we have succeeded in an adequate loan, we should not have delayed proceeding before the Lord Advocate so long on the order of reference made to him by the King in August last. Your suggestion about taking out a charter on the signature (torn) is deserving consideration, but in my present (torn) I think it would be better to be (torn.) My reasons are too long here to detail; but as I hope something will soon arise that we may meet together, I can then more minutely discourse with you thereon, and probably satisfy you that this signature has a particular bearing to the subsequent charter, which took place 7th December 1639. Your draft of reduction I may call a commencement of business. Lord Stirling feels most truly the warmth, zeal, energy, and promptitude, with which you have come forward, and continue to act. I feel gratified

at the same, inasmuch as you so harmonize with my own invocation, and with unity of exertion and confidential explanations, I shall never doubt but of eventual success, and that our labours will be crowned over the malignant interposition of all opposers. With respect to any loan in Scotland, Lord Stirling is aware that it would be nugatory to press any application. We have a negotiation going forward in Town (not through Messrs Swayne and Company,) which at this moment looks well; the termination, of course, is uncertain, for I never think any thing done till absolutely completed. Pray, do you have any, or have you had any, correspondence with Mr Dillon lately? What were his last sentiments on the case? Would you recommend a copy of the last case and opinion to be sent to him; and if so, would you send yours, requesting it, however, to be returned to you? Lord Stirling desires me to mention him with all kindness to you: and believe me, my dear Sir, yours very truly,

(Signed) T. C. Banks.

MR BANKS TO LORD STIRLING.

Royal Hotel, College Green, Dublin,
24th February 1829.

My dear Lord,—I arrived here yesterday about ½ past 4, after a very fine passage of nearly 8 hours, in which, much to my surprise, I was not affected by the usual sea nausea. I went in the evening to the P. O., but did not find any letters for me. As the mail leaves at 3, I now write to inform you where I am. Last night I called at Mr Hogan, but did not see him. This morning it rains so heavily as to render it impossible at present to stir out, but I hope that in the course of the afternoon it will clear off, that I may proceed in what I have to do here.

This hotel is very full, the mail I came by to Holyhead, as also the coaches, were all full; so that at the head there was a very crowded house, which is one of the worst and dearest that can well be, and obtained from all the company perfect disgust and dissatisfaction; but there being only one inn, the traveller has no choice. All officers being ordered to join their regiments in this country, has occasioned the absent thus to be proceeding from England to their respective quarters. Great preparations are making to receive the new viceroy, and party appears to be very high in the city, and at this hotel a silent tongue is necessary. I shall leave by the Belfast mail, morning mail, on Thursday, so as to be at Donaghedy on Friday morning by eleven, unless I am delayed till the next morning at Belfast, in the inquiry after the Montgomery MS. So soon as I can, I shall write and inform you particulars of progress. In the interim, I hope you will have had some good and satisfactory accounts from Mr Corbett.

My best regards to Lady S., and all the dear family, who remain, my dear Sir, yours mo. faithfully.

(Sigd) T. C. BANKS.

MR BANKS TO LORD STIRLING.

Donaghady, 3d Mar. 1829.

My dear Lord,—I should have answered your letter, No. I., but I had just before written to you, so that our letters crossed each other, and must have been reciprocally received much about the same time. In my letter I mentioned how extremely wet the day then was. Indeed, so dripping a rain, that not one gentleman went out of the hotel, and no Christian would even have turned out a dog. Wrote, however, by the penny post to the Rev. Mr Cooper, stating what I wanted, and requesting him to favour me with an answer as to what time it would be convenient for me to see him the next day. In the evening, when the rain had somewhat abated, went to Mr Hogan, who was at home, and apologized for being out the evening before. He inquired kindly after Lady S. and yourself, said Mrs H. was very unwell, and regretted that he could not ask me to his house. He then entered into conversation. I shewed him the case and opinion, and left the same with him to read over. I then referred to what I wanted from Mr Cooper, he said he was afraid I should not get the registers, as the books were very defective; and when he looked into them he could not find any such entries. I shall, therefore, now give you a journal of proceedings,—February 25th, after breakfast took a car (it continued to rain so, not so heavily and constantly as yesterday) and went to Mr Cooper's in Prussia Street, about two miles from College Green, found him at home, he said he had just sent to the Post-Office an answer to my letter, informing me that the book was in the possession of Mr Hewatson, Portobello, with whom, when he left Ireland last year, he had left it, and had not had it delivered back since his return. Said he had had a paralytic affection of his head which had affected his speech, and rendered him incapable of attending his ministerial functions. Went from Prussia Street to Portobello, two miles in a contrary direction, saw Mr Hewatson, who is one of the elders of the congregation, which he said was in a pitiable state of poverty. He shewed me the book, and *I there found every entry* corresponding with the extract certified by Croasdel. I then made an exact literatim copy of each baptism, as remaining written in the book, which is *in very good condition, and commences in* 1672. On return, late to the hotel, found that Mr Hogan had sent back the case and opinion, not *inclosed* but *open*, without any letter, note, or remark whatever, accompanied only by his card, so that *waiters* and the public might peruse the contents, in the interval of its being left and my coming back.

26. This day wet: having called yesterday evening on Dr Doyle (who was out,) and seen Mrs D., she requested me to call about 11 this morning to see the Doctor; went accordingly, but he was not come home, having been detained all night at an accouchment. She appointed 4 o' clock, when she hoped he would be returned: went again at 4; the Doctor was returned; apologized for his having disappointed me; said that, since I was in Dublin last year, he had been looking over his papers respecting the Hovenden family; that Mrs D. was great grandaughter of Henry H. of Ballynakill; he gave me a full account of the family descent, which is highly respectable, and connected with the Earl of Upper Ossory family. He then wrote me a short letter, reciting Mrs D. as above, and subscribed the same M. D. He mentioned that Mrs D. had a cousin, Hovenden, a barrister in Linc. Inn. This is very important, as the barrister most likely, if asked, would attend the Lord Advocate, and thus fully establish the reputation of Hen. H. and the credibility due to his deposition.

27. Having deemed it right to make every thing as strong as possible with regard to Mr Conyers as well as Hovenden, went to Mr Moore the grocer, in James' Street, nearly 2 miles from College Green, who married the widow of Edward C., the grandson of Mr G. C. of Carlow. He was out, but Mrs M. said if I would call again in the evening, he would most likely be at home, and would inform me what further information he had acquired since my calling last year. Went again in the evening, but Mr M. was not at home, being engaged to dine out; he however left a letter for me, certifying the respectability of the Conyers family. Mrs M. having told me in the morning, that Mr Eades the builder, at Harold's Cross, in whose house the last Captain Conyers (her former husband's 1st cousin) died, certainly must have papers of the family, as he took possession of every thing belonging to the captain; went there, but Mr Eades was out of town, and would not return for some days.

28. Having done every thing in Dublin possible, so as not to render my return there necessary, unless by disappointment at the *other places* it might be expedient to try to trace again the Conyers papers, left Dublin, and went to Drogheda, having been told that Lord Ferrard was at his seat near there, and not at Antrim. Conceiving that, if this was correct, I might probably get an order from him to his steward at Antrim to let me look over his papers, stopped at Drogheda, having appointed to be taken up there by the Belfast morning mail to-morrow.

Ma. 1. Having inquired after Lord F., learned that he had gone to England about 2 or 3 weeks since; proceeded therefore by the Belfast morning mail, and arrived in Belfast at $\frac{1}{2}$ p. 9 P.M.

2. Called on Dr Murray about the Montgomerie MS., but could not obtain more information than already; nor any certain account in whose hands what is extant of the original now is. Mr Joy's copy being only a copy of a copy; but Dr M. has promised

farther inquiry against my return. Left Belfast by the Donaghadee afternoon coach, and arrived there at ½ past 8 P.M.

3. Have called at Mr Delacherois, but neither of the brothers is at home, being gone to Dublin, and will not return for some days. Have just got a letter of introduction to William Montgomerie, Esq. at Gray Abbey, from Mr Hely Hutchinson, nephew to the Earl of Donoughmore. Shall hire a car to-morrow to set off early for that place, which is 9½ Irish miles distant.

Having thus given you a full detail, I have only add, that, having been successful in all other points, I hope to accomplish the one remaining, which done, shall immediately set out on my return, for I assure you that I am very anxious to get back.

I am far from well, for the weather having been so excessively wet till within these three days, I have a violent cold and oppression on my lungs, to which came on last night a very troublesome attack on my bowels. I trust, however, that I shall not be laid up on my journey, for the accommodation in this place is very poor and scanty; and indeed, every where the sleeping rooms are intolerably dirty. As I do not suppose I shall cross from here to Portpatrick, I should imagine I shall be back at Dublin by Saturday, and leave the following day for Howth and Holyhead, so that any letter in answer to this had better be directed P.O., Dublin. Though the delay in getting to Holyhead was (*torn*,) yet it neither created more expense or delay, for, had I been in Dublin on the Sunday, I would not have done any thing, while the charges would have been far above what they otherwise were. At this time, exclusively of the run for Holyhead, there is a great stir among the commercial travellers. For going from Drogheda to Belfast on Sunday, the number of persons who could not get room was very great at Dundalk, Newry, Dromore, and other places; and, had I been booked through, I could not have got forward. I beg my best regards to Lady S. and all the family circle. Hoping they are all well, and that you have received some good tidings from Corbett, I remain, my dear Lord, yours most faithfully,

(Signed) T. C. Banks.

P.S. — Have the goodness to remember me kindly to the Tyrwhitts.

MR BANKS TO LORD STIRLING.

Donaghadee, 4th March, 1829.

My dear Lord,—I wrote to you yesterday, stating my arrival at this place, and my intention of going this morning to Gray Abbey. I engaged a car and went thither; but, much to my disappointment, on my arrival at that ancient seat, I was informed that both the Mr Montgomeries were on a visit at Lord Dufferin's,

where there was assembled a large party—that they would return to the Abbey positively on Saturday, post-horses having been ordered to be sent to fetch them on that day. I went over the venerable remains of the once magnificent fabric, but could not get access to the parts where the monuments are. I learnt at the inn, that Mr Wm. M. to whom I have the letter of introduction, is a very liberal, open man, is fond of family antiquity, and rather proud of his genealogy, has a great deal of such kind of information, and would receive me, if at all recommended to him. I therefore hope I shall find all this account realized, and that the object wanted may be completed. Yet it is a mortifying circumstance to experience this delay, and the more so when time and expenses are consumed thereby. These, however, must be submitted to, or the grand object left unaccomplished.

I cannot but regret, when business of importance is undertaken, that limited means and circumscribed time should interfere, as the interruption of these circumstances is neither satisfactory to the employed nor to the employer. I should have liked to have met all parties at once, on going to them. That I cannot do, so is not my fault; yet I know, where all does not happen according to calculation, the same contentment does not follow as if the rat fell into the trap which was laid for him.

There is only one coach from Belfast to Gray-Abbey, *i. e.* passing through it to Porto Ferry. This is not a mail, and does not run on a Sunday, so that I must consider in going there on Saturday how I am to get away again on Sunday morning, not to lose or spend a day unnecessarily. It is now nearly 8 p.m. This must be in the post-office by half-past 10; so I cannot add much more. I find Colonel Ward is very ill at Bangor, but whether so much so as not to see any one, I cannot ascertain. I mean to write to him by to-morrow morning's coach, which may bring me in an answer in the evening, for I shall not leave any possible channel unexplained. I had fully expected to have found a letter for you here, but as you probably had nothing very material to communicate, I attribute your silence thereto.

I shall write so soon as I have seen Mr Montgomerie, or any party with whom I have been fortunate. My best regards to Lady Stirling, and all the family, and I remain, my dear Lord, yours very sincerely,

(Signed) T. C. Banks.

SAME TO THE SAME.

Carlow, March 17, 1829.

My dear Lord,—In consequence of having found, on my return to Dublin on the 10th instant, a parcel enclosing an old document which appears to be an excerpt from the Charter of Novodamus, 7th December 1639, and bearing on it an indorsement with the

initials, as they seemed, of Mr Conyers, I went to Mr West, the inspector of franks in the General Post-Office (who examined and certified the former documents of Gordon, Hovenden, and Sarah Lyner) and shewed the same to him in order that he might give me his opinion as to the initials being those of the same Mr Conyers who subscribed his name respecting the original charter. He instantly expressed that they were, but wished to re-examine Mr Conyers' will. He accordingly went to the Prerogative Office, and looked at the original will, when he reconfirmed his opinion of the identity of the initials and the signature. After this, I requested him to make a deposition, which he did, before the chief magistrate of Police in Dublin, and I have had it duly certified by Mr Boyle, the notary-public, in proper official form.

Not having any communications as to the person who sent this document, it occurred to me, that as it evidently had been in Conyers' possession it would only come from some one who must have had his papers. I therefore resolved to come to this place in order to ask Mr Fairclough, whom I had seen when at Carlow last year, and who then promised, that if he had any papers relative to what I inquired after, he would let me have them, provided they did not affect any thing of the Conyers family.

On my arrival, I went to Fairclough's house, but he was gone to Wexford or Wicklow (I am uncertain which,) and would not return till Saturday. I inquired of Mrs Fairclough (who recollected me,) but she said she knew nothing of the circumstances. She shewed me an old family Bible with the entry of a baptism of a daughter of Mr Conyers, and the names of the sponsors; also several other irrelevant entries, but denied having any other papers, excepting the copy of the will of Mrs Conyers, to whom her husband was executor, and a deed of settlement of Capt.-Lt. Conyers (son of Mr Thomas Conyers) on his wife. Now, I have strong reasons for believing the parcel came from this quarter, for Mrs Moore, who was the wife of Mr Gordon Conyers, son of the said Capt.-Lt. Conyers, told me that Fairclough was a very great rogue, had got the widow of her husband's father to make a will, appointing him (Fairclough) executor, and leaving to himself all her property. This will was open to contention, but when Fairclough found he was likely to be proceeded against, he became a bankrupt, and thus rendered it useless for law proceedings to be made where nothing was to be had therefrom. Under these circumstances, Fairclough most probably sent the parcel to me without any communication, that his name might not be brought forward and be exposed thereby to questions or investigations as to the Conyers' concerns, which he might not choose to answer. Such are my surmises; however, the excerpt is certainly of great importance, as the identity of its having once belonged to Mr Conyers' who had the original Charter of Novodamus, is so well proven and established.

Mr Lakie can give no farther information than before. I have

set him to inquire after the Hamiltons of Carlow, and he is to send me the result of his inquiries either to me at Dublin or after the 24th inst. directed to me at Nethertown House.

I shall take to-morrow's mail back to Dublin, where I shall await hearing from you in answer hereto, and determine thereby my further proceedings or return to England.

I do not know what more I can do. I think I have been very fortunate; could I perceive a chance of more good any where I should certainly resort to it; but I do not view any opening, and therefore what I say here must be either acted upon or suspended, according to what, on further consideration after my return, may be judged most expedient. My best regards to Lady Stirling and all the family, with those to yourself, of, my dear Lord, yours most faithfully,

(Signed) T. C. Banks.

MR BANKS TO LORD STIRLING.

Dublin, 24th March, 1829.

My dear Lord,—Not having any letter from you in answer to my last, I have to mention that I shall leave this place to-morrow morning at seven A. M., for Howth, and thence to Holyhead, so that I suppose I shall be with you on Friday by the Salop coach. I have not had any letter from Mr Montgomery nor Lord Dufferin, but have had an answer from Mr Conyers at Charles Ville, that his and the family at Carlow were not connected. This reply terminates all further inquiry after Conyers. I ought to have noticed before the kind attentions of Mr Armstrong to promote your success in every way possible to him. He has published an ordination with an appendix of all the eminent presbyterian ministers, and has noticed the deceased J. A. very particularly. He has presented you, through me, with a copy, and I have brought three others for all tends to confirm and corroborate the series of your documents of descent. Yesterday, I went to Harold's Cross with a letter from him to the Rev. Philip Taylor, who was a schoolfellow with your uncle the Rev. J. A., of whom he spoke in a great strain of eulogy, but does not recollect of ever hearing him mention his descent from the Stirling title. He is very old, but in perfect recollection. This moment I am returned from a very long and interesting interview with Hamilton Rowan, a most delightful old man, who received me with great complacency, and has let me have his family pedigree to peruse. I am afraid of being too late for the post, and since I shall see you soon, I must defer all other detail till you meet. I am very hoarse from my cold. With best regards to Lady Stirling and all the family, I remain, my dear Lord, yours most faithfully.

(Signed) T. C. Banks.

MR BANKS TO MR LOCKHART.

Netherton House, 10*th April*, 1829.

My dear Sir,— I dare say you are rather surprised at not having heard from me long before this, but I have been so much engaged in several material respects with regard to myself, and others with reference to Lord Stirling's business, as to have occupied the greatest part of my time; while the other was waiting in great anxiety to hear from him, and be enabled to proceed from Ireland to you at Edinburgh, according as we had arranged. The important *primum mobile* of action not having been yet achieved, I found it requisite for me to return hither, instead of crossing to Port Patrick; and thus I deemed it was more advisable to hear at this place what had been going forward, or passing between you, than to write on a subject touching which, for the present, we are in a state of suspense. I must however observe, that, during my stay in Ireland, I was very fortunate in some points of high consequence, all particularly confirmatory as well of his Lordship's descent, as of the identity of the Charter of Novodamus, an original excerpt from which I have had put into my hands of a most undoubted nature and authenticity.

I call this fortunate, because, since I came from Ireland, I have been at Birmingham, where, upon going to Mr Harold, (the son of the gentleman who acted for Lord Stirling in America before I went there,) I learnt that the letter and parcel which I had sent to his father several months ago, had never been received, so that I am under great apprehension that the copy of the charter, which I had retransmitted for certification, has been lost, and if so, would at this crisis be a serious misfortune. I therefore consider what I have so unexpectedly met with, to be of very estimable service, as I should think it would amply prove the tenor of the original charter; and when you come to see its very copious contents, I dare say you will be of my opinion; but you, from better experience, must judge of that more competently than myself.

Lord S. expects to be able to go before the Lord Advocate during the ensuing vacation; but he would wish to have you present, and as such, requests you will have the kindness to answer, by return of post, whether you would forthwith come to him, on having a letter from him for that purpose, and appointing the time.

I have been looking over Mr Dillon's letter in observation upon the case and opinion you sent to him. I cannot say that he seems to enter into the strength of the case, but, on the contrary, to be confused in what he writes, and in the view taken by him of the subject at large. This is of no consequence, as it is not by his judgment Lord S. intends to proceed. You have embraced the

bearings in a strong light, and your draft of the Summons of Reduction seems well drawn for the object to be entertained by its process. There may be some points for us to consider when we meet, which I hope will be very shortly.

I am very desirous you should see all I have collected and arranged for the occasion; when together, we could do more in twenty-four hours, than twenty-four letters could explain or settle. Lord Stirling desires me to make his compliments to you; at the same time I beg to add, that I hope Mrs L. and your little family continue well, and that you will remember me kindly to her,—remaining, my dear Sir, yours very truly.

(Signed) T. C. Banks.

P.S.—What side is your friend the baronet taking at this moment? If favourable to the Ministry, it would be a good opportunity to ask the Wharton peerage as a boon by patent, as was accepted by Thomas Egerton in the case of the barony of Grey de Wilton.

MR BANKS TO MR LOCKHART.

Netherton House, 17th April, 1829.

My Dear Sir,—Lord Stirling not being prepared to go before the Lord Advocate as he had expected he would have been when I wrote to you last, (though he hopes he shall be very shortly,) I have considered it might be desirable that in the interim you should see the arrangement of the case, and evidence intended to be submitted to him, and for this purpose I now send you the draft drawn out for the occasion. You will perceive I have divided the subject into several heads, for the purpose of applying the evidence distinctly to its own particular point of bearing. Thus, the descent and right of succession, under the course of pedigree, are supported by their appropriate documentary proofs: what relates to the charter, is detailed under its own line, to be sustained: and what relates to the copy of the charter coming from America, is shewn by the particular circumstances by which that country was a very natural place for every thing appertaining to the Earl of Stirling to be found in. I am in great hopes we shall be able to get matters afloat, by going before the Lord Advocate soon, and commencing the proceedings recommended by you, and approved by Mr Wilson, at an early day after the Lord Advocate's report. I cannot but feel uneasy respecting the copy of the charter returned to America for verification. What I wrote to you, that my letters and parcels for Mr Harvey had never reached him, I am sorry to say seems confirmed, by Mr Hunt never having received any answer to the case, or had it returned, as he desired, which he sent at the same time to Mr Pickering. However, I think we must, ere long, be set at rest upon this topic.

As to the excerpt I so unexpectedly got in Ireland, it appears to have been either taken by, or to have belonged to, Mr Conyers, who had the original charter; for, his initials are on the back of it, and those initials I have had examined with his original writing to several documents, in the several courts at Dublin.

Having made a copy of this excerpt, I also send it for your perusal, that you may judge how far it may be an adminicle adequate to maintain the application for a new charter, before the Lord Advocate; or to sustain an action to prove the tenor, in the Court of Session at Edinburgh. When you have looked over the whole of what is now forwarded, I will thank you to return them, with such of your remarks, observations, and amendments, as you may deem more or better calculated to promote the object in view; for, as I am sure we have only one general and self-same motive, on behalf of Lord Stirling, I cannot but be pleased with your sentiments and advice, even if they differ from my comprehension of the case. I fully trust that, by the time of your answer hereto, either Lord Stirling or myself will be able to announce to you the day which the Lord Advocate may appoint, for entering on the order of reference, and when his Lordship would wish you to come to town.

His Lordship much appreciates the kindness and readiness with which you always have attended to his business; and desires me particularly to express his best compliments to you. Have the goodness to remember me to Mrs Lockhart; and believe me, my dear Sir, yours very truly.

(Signed) T. C. Banks.

[The affidavits of Lyner and Hovenden, the deposition of Mrs Pountney, and the statement by William Gordon, which follow the above letters, are not reprinted, as they are to be found in No. II. of Appendix to Introduction.]

EXTRACT from Crawford's Lives, as to Death, &c. of Archbishop Spottiswood.

In his last Sickness he behaved with great Piety and Resignation, gave an Account of his Faith, with which he declared himself fully satisfied, now that he was upon the Verge of the other World. After this he received the blessed Sacrament, which he told those who visited him had exceedingly fortified and refreshed his Mind, and advised them to apply to this support upon the same Occasion. A few Days after he surrendered up his Soul to GOD on the 27th of *December*, 1639, aged 74.* His Body, for

* Reliquæ Sancti Andreæ, MS. penes me.

the greater State, was, by His Majesty's Appointment, conveyed by Torch-light from his Lodgings to *Westminster-Abbay*, where he was buried near his beloved Master King *James*, coming to the Grave in peace, and in a good old Age, without being Witness to those Calamities, which afterward happened to his Country, whose Affairs, by long Experience, he knew as well as any Man whatsoever. Over his Grave was erected a decent Marble Monument, with this inscription.

MEMORIÆ SACRUM

DOMINUS JOANNES SPOTISWOOD, ECCLESIÆ SANCTI ANDREÆ ARCHIEPISCOPUS, SCOTIÆ PRIMAS, ET REGNI CANCELLARIUS.

VIGINTI ANNOS PRESBYTER, UNDECEM ANNOS ARCHIEPISCOPUS GLASGOENSIS, VIGINTI QUINQUE ANNOS S. ANDREÆ, ET PER

QUATUOR ANNOS REGNI SCOTIÆ CANCELLARIUS, EX HAC VITA IN PACE MIGRAVIT ANNO DOMINI 1639,

SEXTO CALENDAS DECEMBRIS, REGNI CAROLI 15.

ÆTATIS SUÆ 74.

THE END.

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